

# Shire of Denmark

## Ordinary Council Meeting

# AGENDA

20 SEPTEMBER 2022



TO BE HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK, ON TUESDAY, 20 SEPTEMBER 2022, COMMENCING AT 4.00PM.



### Contact Us

953 South Coast Highway, Denmark WA 6333

*Correspondence to:*

Post Office Box 183, DENMARK WA 6333

Phone: (08) 9848 0300

Email: [enquiries@denmark.wa.gov.au](mailto:enquiries@denmark.wa.gov.au)

Website: [www.denmark.wa.gov.au](http://www.denmark.wa.gov.au)

Facebook: shireofdenmark

Your Denmark: [www.yourdenmark.wa.gov.au](http://www.yourdenmark.wa.gov.au)

## Strategic Community Plan (snapshot)

### E1.0

#### Our Economy

*We are an attractive location to live, invest, study, visit and work*

- E1.1 To have a stable and locally supported business community that embraces innovation, creativity, resourcefulness and originality
- E1.2 To be a vibrant and unique tourist destination, that celebrates our natural and historical assets
- E1.3 To have diverse education and employment opportunities
- E1.4 To recognise the importance of agriculture in our local economy and protect prime agricultural land

### N2.0

#### Our Natural Environment

*Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future*

- N2.1 To preserve and protect the natural environment
- N2.2 To promote and encourage responsible development
- N2.3 To reduce human impact on natural resources, reduce waste and utilise renewable energy
- N2.4 To acknowledge and adapt to climate change

### B3.0

#### Our Built Environment

*We have a functional built environment that reflects our rural and village character and supports a connected, creative, active and safe community*

- B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community
- B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users
- B3.3 To have a planning framework that is visionary, supports connectivity and enables participation
- B3.4 To manage assets in a consistent and sustainable manner
- B3.5 To have diverse and affordable housing, building and accommodation options

### C4.0

#### Our Community

*We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit*

- C4.1 To have services that foster a happy, healthy, vibrant and safe community
- C4.2 To have services that are inclusive, promote cohesiveness and reflect our creative nature
- C4.3 To create a community that nurtures and integrates natural, cultural and historical values
- C4.4 To recognise and respect our local heritage and Aboriginal history

### L5.0

#### Our Local Government

*The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government*

- L5.1 To be high functioning, open, transparent, ethical and responsive
- L5.2 To have meaningful, respectful and proactive collaboration with the community
- L5.3 To be decisive and to make consistent and well considered decisions
- L5.4 To be fiscally responsible
- L5.5 To embrace change, apply technological advancement and pursue regional partnerships that drive business efficiency
- L5.6 To seek two-way communication that is open and effective

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- 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**

MEMBERS:

Cr Ceinwen Gearon (Shire President)  
 Cr Kingsley Gibson (Deputy Shire President)  
 Cr Clare Campbell  
 Cr Donna Carman  
 Cr Donald Clarke  
 Cr Nathan Devenport  
 Cr Jan Lewis  
 Cr Jackie Ormsby  
 Cr Janine Phillips

STAFF:

David Schober (Chief Executive Officer)  
 David King (Deputy Chief Executive Officer)  
 Gina McPharlin (Director Corporate & Community Services)  
 Claire Thompson (Governance Coordinator)

APOLOGIES

ON APPROVED LEAVE(S) OF ABSENCE

Nil

ABSENT

VISITORS

- 3. DECLARATIONS OF INTEREST**

Name	Item No	Interest	Nature

- 4. ANNOUNCEMENTS BY THE PERSON PRESIDING**

- 5. PUBLIC QUESTION TIME**

**5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

At the meeting held on 16 August 2022, Fabian Stein asked a question that was taken on notice. The question and the response have been provided to Fabian in writing and is copied below.

- 1. Fabian referred to a recent amendment to a Local Planning Policy which allowed people to rent out granny flats and asked whether there had been much uptake from landowners.

*Response: Since the adoption of Local Planning Policy 49 – Ancillary Dwellings in November 2021 the Shire of Denmark has received thirteen (13) development applications for ancillary dwellings.*

*This is compared to a total of twenty one (21) development approvals issued for ancillary accommodation in the preceding five years to 2017 (inclusive).*

**5.2 PUBLIC QUESTIONS**

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on the wall near the entrance to the Council Chambers or can be downloaded from our website at <http://www.denmark.wa.gov.au/council-meetings>.

Questions from the public are invited and welcomed at this point of the Agenda.

In accordance with clauses 3.2 (2) & (3) of the Shire of Denmark Standing Orders Local Law, a second Public Question Time will be held, if required, and the meeting is not concluded prior, at approximately 6.00pm.

Questions from the Public

**5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

**5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

In accordance with Section 5.24 of the Local Government Act 1995, Sections 5, 6 and 7 of the Local Government (Administration) Regulations and section 3.3 and 3.13 of the Shire of Denmark Standing Orders Local Law, the procedure for persons seeking a deputation and for the Presiding Officer of a Council Meeting dealing with Presentations, Deputations and Petitions shall be as per Council Policy P040118 which can be downloaded from the Shire’s website at <http://www.denmark.wa.gov.au/council-meetings>.

In summary, however, prior approval of the Presiding Person is required, and deputations should be for no longer than 15 minutes and by a maximum of two persons addressing the Council.

Nil.

**6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE**

A Council may, by resolution, grant leave of absence, to a member, for future meetings.

**7. CONFIRMATION OF MINUTES**

**7.1 ORDINARY COUNCIL MEETING – 16 AUGUST 2022**

OFFICER RECOMMENDATION	ITEM 7.1
That the minutes of the Ordinary Meeting of Council held on the 16 August 2022 be CONFIRMED as a true and correct record of the proceedings.	

**7.2 STRATEGIC BRIEFING NOTES – 16 AUGUST 2022**

OFFICER RECOMMENDATION	ITEM 7.2
That the Notes from the Strategic Briefing Forum held on 16 August 2022 be RECEIVED.	

**8. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**9. REPORTS OF OFFICERS****9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT****9.1.1 SCHEME AMENDMENT 151**

<b>File Ref:</b>	TPS3/SA151
<b>Applicant / Proponent:</b>	Williams Consulting on behalf of G Robertson
<b>Subject Land / Locality:</b>	Strata Lot 25, Lot 2 (#429) Mount Shadforth Road, Shadforth
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	24 August 2022
<b>Author:</b>	Craig Pursey, Manager Sustainable Development
<b>Authorising Officer:</b>	David King, Deputy Chief Executive Officer
<b>Attachments:</b>	9.1.1a - Scheme Amendment 151 document 9.1.1b - Karri Mia Development Guide Plan 9.1.1c - Schedule of Submissions

**Summary:**

Council adopted Scheme Amendment 151 at the December 2021 Ordinary Council Meeting (Res.031221). The Scheme Amendment allows for the undeveloped portion of the Karri Mia tourist development to be subdivided and developed independently of the remainder of the site.

The assessment process is now complete, and it is recommended that Council support Scheme Amendment 151 with minor modifications to the scheme amendment documentation.

**Background:**

The purpose of this report is:

- To present to Council the outcome of the public consultation period; and
- For Council to determine whether it supports the proposal with, or without, modifications.

**Subject Site**

Lot 2 Mount Shadforth Road, Shadforth is located approximately four (4) kilometres west of the Denmark Town Centre and is zoned Tourist Zone No.1 by the Shire of Denmark Town Planning Scheme No.3 (the Scheme). The site is located on a tourist route and forms part of the Karri Mia Bungalows tourist development; refer to Figures 1 and 2 of the Scheme Amendment document in attachment 9.1.1A.

Tourist Zone No.1 (Karri Mia Tourist Zone) is developed with a restaurant, caravan park, motel, spa retreat, and chalet development.

The various land uses have been subdivided and strata titled in accordance with the Karri Mia Development Plan 09-16-DP(t) found at Attachment 9.1.1B.

Lot 2 within the Karri Mia Tourist Zone has been strata titled to allow for each strata title lot to be developed with a dwelling and several chalets.

The applicant states that "...significant efforts have been undertaken by the landowner over a number of years to develop this portion of the site under the existing strata scheme, market feedback has identified a separate strata scheme is required in order to secure investment to facilitate future tourist development."



*A 2.2ha portion of the Lot 2 (Strata Lot 25) remains undeveloped.*

**Proposal**

The landowner wishes to amend the scheme requirement that limits further subdivision of Lot 2 to strata title subdivision only by:

Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by inserting the following wording:

*“Subdivision of Lot 84 (proposed Lot 2) shall be of strata title only, except to create a single freehold lot for the portion of the site containing lots SR19 – SR26 (inclusive) as shown on the Karri Mia Development Plan: 09-16-DP(t), or any minor variation thereto approved by Council.”*

The applicant justifies this amendment because this “...amendment will enable the undeveloped portion of the site to be subdivided from Lot 2, enabling it to be located on its own freehold lot.

This change will enable the landowner to secure investment to develop additional tourist accommodation via a separate strata scheme.”

**Consultation:**

The Shire of Denmark advertised Scheme Amendment 151 in accordance with the requirements of Planning and Development (Local Planning Schemes) Regulations 2015 as follows:

The documentation was referred to the Environmental Protection Authority (EPA) in accordance with Section 81 of the Planning and Development Act 2005 on 14 January 2022.

The EPA considered the proposal and determined that the proposed scheme amendment should not be assessed under Part IV Division 3 of the Environmental Protection Act 1986.

Government agency and community referrals

Public advertising of Scheme Amendment No.151 commenced on 16 May 2022 and closed on 30 June 2022 (45 days; the statutory requirement is a minimum of 42 days). During the advertising period, the following consultation took place:

- Advertising notice in the Denmark Bulletin;
- Referral of the Scheme Amendment documentation to various government departments inviting comment;
- Referral to 39 landowners generally within a 1km radius of the subject site inviting comment; and
- Scheme Amendment documentation was available for viewing at the Shire Administration Office, and on the Shire's website.

At the close of the advertising period, a total of eight (8) submissions were received, attached at Attachment 9.1.2C is the Schedule of Submissions. Column 4 of the Schedule of Submissions represents Planning Services' comments/responses to the submissions.

**Statutory Obligations:**

- *Planning and Development Act 2005* – TPS No. 3 is an operative Local Planning Scheme under the Act;
- *Planning and Development (Local Planning Schemes) Regulations 2015* provide for complex, standard and basic amendments. Having regard to Regulation 34, Amendment No.151 is a standard amendment given the amendment is consistent with the *Shire of Denmark Local Planning Strategy* that designates the site as 'Tourist'; and
- TPS No. 3 – the site is currently zoned 'Tourist' with Special Provisions detailed under Appendix VIII of the Scheme.

**Policy Implications:**

The following policies have been given due consideration:

- *State Planning Policy No. 3: Urban Growth and Settlement*
- *State Planning Policy 3.7: Planning in Bushfire Prone Areas*
- *Government Sewerage Policy*
- *Planning Bulletin 83/2013: Planning for Tourism*
- *Denmark Tourism Strategy – Stage 1*

**Budget / Financial Implications:**

The required application fee has been paid.

**Strategic & Corporate Plan Implications:**

The site is designated 'Tourist' in the Local Planning Strategy (2011). The proposal is accordingly inconsistent with the Local Planning Strategy.

The report and officer recommendation are consistent with Council's adopted Strategic Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark Strategic Community Plan 2027

## B3.0 Our Built Environment

*We have a functional built environment that reflects our rural and village character and supports a connected, creative, active and safe community*

**Sustainability Implications:**➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.



➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

The applicant has stated that the current restriction, stipulating strata title only, has impacted further development of this Tourist zone, making it unviable.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

There is little to no risk to Council in determining whether to support the scheme amendment proposal. If Council choose to recommend support, or refusal, this recommendation is forwarded to the Western Australian Planning Commission (WAPC) for final determination and any appeal of their final decision lies with the WAPC.

**Comment/Conclusion:**

At this stage of the Scheme Amendment process, Council is being asked to consider whether they support Scheme Amendment 151 following the public advertising period and submissions received.

This Scheme Amendment seeks to enable the green title subdivision of the vacant portion of Lot 2 (being known as Strata Lot 25). The requirements of the adopted Development Plan and design guidelines remain in place, including bushfire management, servicing, design guidelines, and access.

Enabling the green title subdivision of the undeveloped portion of Lot 2 Mount Shadforth Road will essentially facilitate its sale to another developer and result in additional tourist development consistent with the existing planning controls for the zone.

Access

Concern was raised from two landowners within the existing Karri Mia holiday accommodation development that access to a separately subdivided, and developed, Lot 25 would be via the existing internal road network within Karri Mia.

Development of Karri Mia, including a future Lot 25, would be guided by the Karri Mia Development Plan 09-16-DP(t). This Plan shows access to Lot 25 from Mount Shadforth Road, via a shared crossover with Chimes Spa Retreat, and connecting back through Karri Mia.

Discussions with the existing landowner were clear: access to a Lot 25 would be primarily from Mount Shadforth Road and connections back through Karri Mia would revert to that necessary to sustain emergency access only.

The idea of permitting a green title subdivision on Lot 25 is to enable its independent development from the rest of Karri Mia. Access through the existing development would not be desired by a developer, or supported, by the current landowners.

Section 4.1.1 of the Scheme Amendment documentation does not address this issue. There are several options to address this shortcoming, including:

1. Requiring an amendment to the Karri Mia Development Plan 09-16-DP(t), notating the change of access arrangements, should Lot 25 be subdivided; or
2. Leave this minor change to be addressed at the time of subdivision, and update the Scheme Amendment documentation to recognise and reinforce the preferred access arrangement.

This report recommends only updating the scheme amendment document. For a relatively minor issue, an amendment to the Karri Mia Development Plan may involve a structure plan, and local planning policy amendment process, with little improvement to the outcome.

Access to Lot 25 could be satisfactorily established at the time of subdivision, and controlled by the WAPC on the recommendation of Shire staff, with the backing of appropriate wording within the scheme amendment document.

**Voting Requirements:**

Simple majority.

<p><b>OFFICER RECOMMENDATION</b></p> <p>That Council;</p> <ol style="list-style-type: none"> <li>1. In accordance with Regulation 50(2) of the Planning and Development (Local Planning Schemes) Regulations 2015;             <ol style="list-style-type: none"> <li>a) NOTES the submissions received in respect to Amendment No. 151 to the Shire of Denmark Town Planning Scheme No.3; and,</li> <li>b) ENDORSES the response to the submissions as contained at attachment 9.1.2C of this report.</li> </ol> </li> <li>2. In accordance with Regulation 50(3)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015, SUPPORT WITH MODIFICATION Amendment No. 151 to the Shire of Denmark Town Planning Scheme No.3 by:             <ol style="list-style-type: none"> <li>a) Altering the wording at section 4.1.1 of the scheme amendment report in a manner consistent with the response to submissions, as contained at attachment 9.1.2C of this report.</li> </ol> </li> <li>3. CLASSIFY Scheme Amendment No. 151 as a ‘Standard Amendment’ in accordance with Regulation 35 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:             <ol style="list-style-type: none"> <li>a) The amendment is consistent with the objectives identified in the scheme for the Tourist zone.</li> <li>b) The proposal is a text-only amendment, in order to amend and/or delete provisions relating to the existing Tourist Zone 1.</li> <li>c) The proposal will not have any significant environmental, social or economic impacts on land in the scheme area.</li> </ol> </li> <li>4. AUTHORISES the Shire President and the Chief Executive Officer, in accordance with Section 9.49a of the Local Government Act 1995, to execute under Common Seal, Amendment No. 151 to the Shire of Denmark Town Planning Scheme No.3.</li> <li>5. ADVISES those who provided a submission of Council’s resolution.</li> </ol>	<p><b>ITEM 9.1.1</b></p>
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**9.1.2 SCHEME AMENDMENT 152**

<b>File Ref:</b>	TPS3/SA152
<b>Applicant / Proponent:</b>	Ross Thornton
<b>Subject Land / Locality:</b>	Lot 999 Kearsley Road and Lot 106 McLean Road, Denmark
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	25 August 2022
<b>Author:</b>	Craig Pursey, Manager Sustainable Development
<b>Authorising Officer:</b>	David King, Deputy Chief Executive Officer
<b>Attachments:</b>	9.1.2a - Scheme Amendment 152 document 9.1.2b - Scheme extract - Special Residential Zone No.12 Zoning provisions

**Summary:**

Council is to consider adopting (initiating) a scheme amendment that proposes to change the zoning of Lot 999 Kearsley Road and Lot 106 McLean Road, Denmark from 'Special Residential Zone No.12' to the 'Residential' zone with an R5 density code.

This report recommends that the scheme amendment not be adopted (initiated).

**Background:**

The purpose of this report is:

- To formally present to Council the draft Scheme Amendment 152 proposal; and
- For Council to determine whether it supports the Scheme Amendment and, if so, with or without modifications.

Subject Site

Lot 999 Kearsley Road and Lot 106 McLean Road, Denmark (the subject site) is approximately 9.4ha combined and developed with a single house on each lot.

The subject site is located on the corner of both Kearsley and McLean Roads, which are unsealed. The subject site is largely cleared and slopes down from the northwest (~150m AHD) to a low point in the east of the site (~80m AHD).

Lot 999 Kearsley Road has a current subdivision approval for 30 lots.



*Subject Site – extracted from Scheme Amendment 152 documentation*

## Existing Zoning

The subject site is zoned Special Residential Zone No.12. Permitted land uses and conditions to be applied to this subdivision and development are listed in Appendix XIV of Town Planning Scheme No 3 (the Scheme) and an associated Subdivision Guide Plan (refer to Attachment 9.1.2B).

## Background to the current proposal

The landowner approached the Shire with a proposal to introduce a height restriction to the majority of lots within the proposed subdivision of Lot 999 Kearsley Road in December 2021. It is accepted by officers that height limitations within this subdivision would have landscape amenity benefits and assist in ensuring equitable access to views for all lots created.

Height limitations can be achieved through the application of restrictive covenants at the time of subdivision that are administered by the developer. An alternative solution was sought that would not result in a long-term burden on the developer, with the Shire administering the height limitations through the scheme.

Council now has the current scheme amendment proposal before it for assessment. This amendment proposes removing the Special Residential zoning and replacing it with a low-density residential one. This approach recognizes WAPC directions to remove the Special Residential zone from the Model Scheme Text and, therefore future Local Planning Schemes.

## Proposal

The landowner of Lot 999 Kearsley Road (with the support of the owner of Lot 106 Mclean Road) wishes to amend Town Planning Scheme No.3 by:

1. Rezoning the subject land from 'Special Residential' zone to 'Residential' zone.
2. Delete Appendix XIV Provisions including the subdivision guide plan.
3. Introduce an R5 density code to the subject site.
4. Add a new Appendix XIX to the Scheme to apply special provisions to the subject land that differ from the R-Codes. These special provisions include building height restrictions, buildings in setback areas and fencing.

The Scheme Amendment documentation at Attachment 9.1.2A describes the proposal in detail and provides arguments for the proposed changes.

### **Consultation:**

In the Planning and Development (Local Planning Schemes) Regulations 2015, a 'standard amendment' (refer to explanation under 'Statutory Obligations') must be subject to public advertising for a minimum of 42 days.

### **Statutory Obligations:**

#### *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)*

The Regulations provide for complex, standard and basic amendments. Having regard to Regulation 34, Amendment No.152 is a 'standard' amendment. It could be argued that the Shire's Local Planning Strategy does not identify this area as Residential but as Special Residential; therefore, the amendment is a 'complex' amendment. However, the strategy's intent in this area is clearly for low-density residential development regardless of the label applied.

#### Town Planning Scheme No. 3

the site is currently zoned 'Special Residential' with Special Provisions detailed under Appendix XIV of the Scheme.

Planning and Development Act 2005

TPS No. 3 is an operative Local Planning Scheme under the Act.

Clause 75 of the Planning and Development Act 2005 (the Act) states:

**“75. Amending scheme**

A local government **may** (*authors emphasis*) amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment —

- (a) prepared by the local government, approved by the Minister and published in the Gazette; or
- (b) proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.”

Clause 76 of the Act then goes on to describe the circumstances where the Minister may order a local government to amend a Scheme being:

“(1) If the Minister is satisfied on any representation that a local government —

- (a) has failed to take the requisite steps for having a satisfactory local planning scheme or an amendment to a local planning scheme prepared and approved in a case where a local planning scheme or an amendment to a local planning scheme ought to be made; or
- (b) has failed to adopt a local planning scheme or an amendment to a local planning scheme proposed by owners of any land, in a case where a local planning scheme or an amendment to a local planning scheme ought to be adopted;...”

In summary, if Council decides to refuse to adopt Scheme Amendment 152 as proposed, there is no right of appeal to the State Administrative Tribunal, but the Minister for Planning may consider directing Council to do so at the request of the landowner.

**Policy Implications:**

The following policies have been given due consideration:

- *State Planning Policy No. 3: Urban Growth and Settlement*
- *State Planning Policy 3.7: Planning in Bushfire Prone Areas*
- *Government Sewerage Policy*

**Budget / Financial Implications:**

The required application fee has been paid.

**Strategic & Corporate Plan Implications:**

The report and officer recommendation are consistent with Council’s adopted Strategic Plan Aspirations and Objectives in the following specific way:

Denmark Strategic Community Plan 2027**B3.0 Our Built Environment**

*We have a functional built environment that reflects our rural and village character and supports a connected, creative, active and safe community*

**Sustainability Implications:****➤ Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

There are no risks assessed as medium or above in accordance with the Shires risk management framework.

**Comment/Conclusion:**

The arguments in favour of adopting Scheme Amendment 152 included:

- Scheme Amendment 152 seeks to align the zoning of the subject site with the model scheme text and WAPC recommendations for Special Residential areas by converting this zone to a low-density residential zone. The methodology proposed appears to be sound, with a few concerns detailed below.
- It introduces height controls that will result in better landscape amenity and equitable access to views from each of the proposed lots.
- It removes the superfluous special provisions listed at Appendix XIV of TPS3, many of which are now addressed through other means (i.e. bushfire, effluent disposal and vegetation protection).

Concerns with the proposed Scheme Amendment include:

- A Residential zone introduces other discretionary land uses to the area not anticipated when the Special Residential zone was created including restaurant, child-minding centre, education establishment, cottage industry and boarding house.
- The side setbacks would be determined by the R-Codes (i.e. as per the length of wall and height), rather than the 6m minimum setbacks in the current zone that would ensure adequate open space in the current context.
- Scheme Amendment 152 proposes to apply height restrictions on all lots in the subdivision except Lot 106 and proposed Lot 1, 3 and 4 McLean Road. However, Lots 1, 3 and 4 McLean Road do not exist as yet. The proposed scheme amendment will remove the subdivision guide plan from consideration and therefore the ability to simply apply specific controls to portions of Lot 999.
- The proposed height restrictions are not the standard heights imposed by the R-Codes, resulting in a continued morphing of Special Residential and Residential standards, which Amendment 152 purports to solve.
- The subject site adjoins other Special Residential zoned properties that ideally should also change to a low-density residential zone simultaneously to prevent any disconnect.
- The WAPC objective to remove the Special Residential zone and replace it with low-density residential is intended to simplify local planning schemes across the state and bring some measure of uniformity across local governments. Making this change now, ahead of the Shire's new Local Planning Scheme No.4, may have the opposite effect by adding another different way of administering these areas to the Scheme.

Options

Council has at least three options:

1. Adopt (initiate) Scheme Amendment 152.

This may have the benefit of testing one option of how the new Town Planning Scheme may address the issue of converting Special Residential to a low-density residential zone.

2. Adopt Scheme Amendment 152 subject to modifications that retain the Special Residential zoning, but simply adds a clause establishing a 5.5m height restriction.

This would give the landowner the height controls they seek whilst leaving the conversion of the Special Residential zone to the new Scheme. There may be a question of whether the WAPC would accept an amendment to a Zone that is no longer supported.

3. Refuse to adopt (initiate) Scheme Amendment 152, and leave the landowner/developer to administer height controls through restrictive covenants until such time as LPS4 is prepared and addresses the conversion of Special Residential land in a strategic approach.

On balance, this report recommends that Council refuse to adopt (initiate) Scheme Amendment 152 for the following reasons:

- Height controls can be introduced through restrictive covenants and administered by the landowner until the new Scheme is prepared.
- The Shire’s planning resources are best used in a holistic review of the local planning framework.
- There are some uncertainties around introducing a Residential zone as proposed, including reduced side setbacks, additional discretionary land uses, and the height controls not working as written.
- Creating another table within TPS3 at this time adds more unnecessary complexity to the Scheme.
- While the conversion of the property's zoning to a low-density Residential zone has merit, and is consistent with the WAPC requirements, the Shire has 13 of these zones; their conversion is best addressed in a strategic and consistent fashion through the Scheme review.

**Voting Requirements:**

Simple majority.

<p><b>OFFICER RECOMMENDATION</b></p> <p>THAT Council, pursuant to section 75 of the Planning and Development Act 2005, REFUSES to adopt Scheme Amendment 152 to the Shire of Denmark Local Planning Scheme No. 3 for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The proposed conversion of the Special Residential Zone to a low-density Residential zone is best handled strategically and coordinated through the Scheme Review.</li> <li>2. There is no compelling reason to introduce scheme provisions controlling the height of development when the developer can impose restrictive covenants at the time of subdivision.</li> <li>3. The Scheme Amendment would introduce the potential for land uses to the area that were not anticipated when the zone was created.</li> <li>4. The zone change would introduce unnecessary, and additional, complexity to Town Planning Scheme No.3.</li> </ol>	<p>ITEM 9.1.2</p>
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### 9.1.3 PREPARE NEW LOCAL PLANNING SCHEME

<b>File Ref:</b>	PLN.102
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Shire wide
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	26 August 2022
<b>Author:</b>	Will Hosken, Town Planner
<b>Authorising Officer:</b>	David King, Deputy Chief Executive Officer
<b>Attachments:</b>	Attachment 9.1.3a – Town Planning Scheme No. 3 Scheme Review Report Attachment 9.1.3b – Local Planning Scheme No. 4 Scheme Area Map Attachment 9.1.3c – DPLH Flowchart – Process for preparation or adoption of new local planning scheme

#### Summary:

This report requests that Council:

- Endorse the assessment of Town Planning Scheme No. 3 provided in the Scheme Review Report (Attachment 9.1.3a).

The Scheme Review Report recommends the preparation of a new local planning scheme.

- Resolve, in accordance with the Regulations, to prepare a new local planning scheme (Local Planning Scheme No.4) to replace the current scheme (Town Planning Scheme No.3).

Local Planning Scheme No.4 will relate to the whole of the Shire of Denmark, as indicated in the Scheme Area Map (Attachment 9.1.3b).

- Adopt a moratorium on accepting and initiating any further amendments to TPS3.

A review of the local planning framework provides opportunities for landowner proposals to be put forward.

#### Background:

##### *Planning Framework Review*

The Shire of Denmark Town Planning Scheme No. 3 (TPS3) was first gazetted on 25 March 1994. The Scheme was consolidated in 2003/04 and has been amended regularly since to reflect shifts in community needs and expectations.

In October 2011 the Shire of Denmark adopted its current Local Planning Strategy (2011 LPS), providing direction for TPS3, local planning policies and planning decision-making. The WAPC endorsed the Strategy in May 2012.

In March 2013 the Council resolved to prepare a new local planning scheme (Local Planning Scheme No. 4 – LPS4) to modernise statutory planning controls, reflect current best practice and provide for the implementation of the 2011 LPS.

In 2015 the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) were introduced, resulting in fundamental changes to how local planning schemes were prepared and amended. With these substantial changes to practice the preparation of a new local planning scheme was discontinued.

In November 2019 the Council established a working group to guide the review of the 2011 LPS. A draft Local Planning Strategy has been prepared and is scheduled to be presented to the Council for consideration in September 2022. This Strategy will provide direction for future changes to the local planning framework.



### *Scheme Review Report*

The Regulations introduced a requirement for the review of all local planning schemes every five years. This review aims to complete a 'health check' of the local planning scheme by assessing whether it is up to date and compliant with the Regulations.

A Scheme Review Report has been prepared for TPS3 and is presented for the consideration of Council (Attachment 9.1.3a). This report concludes that while ongoing amendments and the introduction of 'deemed' provisions in the Regulations have assisted in keeping the TPS3 relevant, preparation of a new local planning scheme is desirable for the following reasons:

- The adoption of the Regulations in 2015 introduced fundamental changes to the structure and operation of local planning schemes. This included deemed provisions that apply within all schemes and model provisions to improve alignment between local government areas, which in a number of instances are inconsistent with TPS3.
- Significant changes have been made to State Planning Policies, changing the context within which TPS3 was initially prepared and the functionality of some existing scheme provisions.
- The preparation of a new local planning strategy will provide direction on contemporary community expectations and address current issues. This requires implementation through modifying the local planning scheme and policies.
- Preparing a new local planning scheme will address some of the administrative complexity of TPS3, providing for a more legible, consistent, and defensible scheme text.

Re-modelling of TPS3 would likely be a less efficient and effective way to achieve these outcomes.

The Council is requested to endorse the TPS3 Scheme Review Report and refer the report to the Department of Planning, Lands & Heritage for assessment on behalf of the WAPC. The WAPC may elect to endorse the Scheme Review Report in its entirety or make alternative recommendations; however, it is noted that the WAPC has previously supported the Shire in proposing to prepare a new local planning scheme.

Consistent with the recommendations of the TPS3 Scheme Review Report it is requested that the Council resolve to prepare a new local planning scheme. In accordance with the Regulations a resolution of the Council, notification of the WAPC and notification of other specified agencies is required to initiate this process. A resolution of the Council to this effect would enable the Shire to commence preparation of LPS4 concurrent with the referral, advertising and finalisation of the Draft Local Planning Strategy.

### *Moratorium*

Alongside the preparation of a new local planning scheme, the Council is also asked to consider adopting a moratorium on the acceptance and initiation of any new local planning scheme amendments. This is proposed for the following reasons:

- Allow existing amendment proposals to be finalised and avoid delay in adopting a new scheme due to outstanding amendment proposals.
- Avoid duplication of review processes, given that public consultation associated with the Draft Local Planning Strategy and preparation of a new local planning scheme will provide opportunities for proposed changes to the local planning framework (in its entirety) to be put forward by landowners.
- To avoid the complexity and inconsistency of introducing any further changes to TPS3 while the preparation of a new local planning scheme is in progress.
- To enable staffing resources to be dedicated to the preparation of the new scheme, ensuring the project can be delivered in an efficient manner.

It is proposed that a moratorium would apply to any newly proposed standard or complex amendments. Basic (administrative) amendments that do not require public consultation may be progressed to ensure the effective operation of the Scheme.

### *Next Steps*

In accordance with the Regulations a resolution of Council is required to endorse the TPS3 Scheme Review Report and to initiate the preparation of a new local planning scheme.

Should the Council resolve, as this report recommends, the following actions will be undertaken:

- Referral of the TPS3 Scheme Review Report to the WAPC, requesting assessment.
- Notification of the WAPC, and other relevant bodies, of the Council's resolution to prepare a new local planning scheme.
- Commencement of work on the preparation of LPS4 once the Draft Local Planning Strategy has been referred to the WAPC.
- Preparation of a report to the Council presenting proposed Draft LPS4 and detailing public consultation requirements.

Each step will be undertaken in accordance with the requirements specified in the Regulations.

### **Consultation:**

The initiation of a new local planning scheme does not itself trigger the need for any public consultation; however, extensive opportunities are provided through the review of the Shire's local planning framework.

Preliminary and forthcoming public consultation associated with the Draft Local Planning Strategy provides opportunities for proposed changes to the scheme to be put forward by landowners and incorporated into this review process. Once prepared, a draft of LPS4 will also be publicly advertised and notifications will occur in accordance with the Regulations.

Since late 2021 Shire officers have advised enquiring landowners and consultants that a moratorium may occur when a new scheme is prepared. It is considered unlikely that any new amendments will be proposed given the opportunity to propose changes through forthcoming public consultation processes (at lesser cost to the proponent).

As the preparation of a local planning scheme is a technical exercise, the Shire will continue to liaise with staff from the Department of Planning, Lands & Heritage to ensure alignment of LPS4 with the Regulations and other relevant State Planning Policies.

Although the scheme review is outside of the terms of reference for the Local Planning Strategy Working Group, the Shire will liaise with the Working Group to ensure the alignment of the draft scheme provisions with strategic objectives.

### **Statutory Obligations:**

The *Planning and Development Act 2005* (the Act) provides for the preparation of a local planning scheme to detail controls on the use and development of land within a designated area. These controls are used to achieve a preferred pattern of land use and form of development, as directed by a local planning strategy and relevant state and regional planning documents.

The Act broadly identifies the matters that a scheme may address (Schedule 7), while the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) provides more detailed direction on the content of a scheme.

The Regulations identify a range of 'deemed' provisions (Schedule 2) that are applicable within all local planning schemes and 'model' provisions (Schedule 1) to promote greater consistency across different schemes. Local planning schemes may also contain unique provisions relevant to local conditions, noting that this requires detailed consideration to ensure their effectiveness.

The process for preparing and amending a local planning scheme are outlined in the Regulations; a summary of the process is contained within Attachment 9.1.3c.

The Regulations require a review of all operating local planning schemes every five years, with a report prepared in a manner, and form, approved by the WAPC (Part 6, Division 1, Regulation 66(2)). The TPS3 Scheme Review Report has been prepared in order to be consistent with the guidelines published by the Department. The Regulations specify that a review report must then be submitted to the WAPC for consideration, which would ordinarily occur within 90 days.

A Council resolution to prepare a new local planning scheme must occur in the manner prescribed in the Regulations and a Scheme Area Map (Attachment 9.1.3b) specifying the area of the proposed scheme is required to be referenced. The proposed scheme area for LPS4 includes the entirety of the Shire of Denmark, consistent with TPS3.

In accordance with the Regulations, after passing a resolution to prepare or adopt a local planning scheme, the Shire must notify and invite comment from the following persons or bodies:

- Western Australian Planning Commission.
- Adjoining local governments.
- Licensees under the *Water Services Act 2012* likely to be affected by the Scheme.
- Department of Biodiversity, Conservation & Attractions (or as current).
- Other relevant public authorities.

In accordance with Section 81 of the *Planning and Development Act 2005* the Shire is also required to notify the Environmental Protection Authority of its resolution to prepare or adopt a local planning scheme.

The process for public advertising and consideration of submissions prescribed in the Regulations will be detailed as part of the presentation of a draft local planning scheme to the Council.

A new local planning scheme will only come into effect on the day the WAPC endorses it.

On 26 March 2013 the Council resolved (Resolution No. 210313) to prepare Local Planning Scheme No. 4; however, as this resolution preceded the current Regulations, it is considered redundant.

**Policy Implications:**

A new local planning scheme will implement the policy direction of the local planning strategy (in development).

The scheme will also implement recently introduced, or amended, state planning policies and guidelines.

The review process will also consider opportunities to streamline development requirements and simplify assessment processes, which may result in variation of existing planning controls.

Changes in policy direction from TPS3 will be identified when a draft LPS4 is presented to Council.

**Budget / Financial Implications:**

There are no known financial implications upon either the Council’s current Budget or Long Term Financial Plan.

The preparation of a draft LPS4 will be undertaken using current staffing resources.

**Strategic & Corporate Plan Implications:**

The preparation of a new local planning scheme will require consideration of each of the aspirations and objectives of the Council’s adopted Strategic Community Plan *Denmark 2027*, and seek to translate these into appropriate land use planning and development controls.

The preparation of a new local planning scheme will deliver on Community Objective B3.3 “To have a planning framework that is visionary, supports connectivity and enables participation”.

Progression of a review of the local planning framework is identified in the Shire’s Corporate Business Plan for 2022-23 and 2023-24.

**Sustainability Implications:**

➤ **Sustainability:**

Preparing a new local planning scheme will enable the Shire to implement the direction of the Draft Local Planning Strategy, which aligns with the Shire’s Sustainability Strategy and Strategic Community Plan. This will enable the Council to achieve a higher level of sustainability through land use planning and development control.

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

The author of this report has utilised the Risk Management Governance Framework and determined that there are no evident risks with a rating of medium or greater.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council choose to not review TPS3	Unlikely (2)	Major (4)	Moderate (5-9)	Inadequate Document Management	Accept Officer Recommendation

**Comment/Conclusion:**

In accordance with the requirements of the Regulations, the Shire has prepared a Scheme Review Report to assess the status of Town Planning Scheme No. 3.

This report recommends that Council adopts this report and resolves to prepare a new local planning scheme, being the next recommended step in the review of the local planning framework.

**Voting Requirements:**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.1.3</b>
<p>That Council resolves to:</p> <ol style="list-style-type: none"> <li>1. ENDORSE the Scheme Review Report prepared for Town Planning Scheme No. 3 pursuant to the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> (Attachment 9.1.3a).</li> <li>2. PREPARE, pursuant to Section 72 of the <i>Planning and Development Act 2005</i>, Local Planning Scheme No. 4 with reference to the entire area within the Shire of Denmark as shown on the ‘Scheme Area Map’ (Attachment 9.1.3b).</li> <li>3. ADOPT a moratorium on the acceptance and initiation of any further standard or complex amendments to Town Planning Scheme No. 3 until such time as Local Planning Scheme No. 4 has been gazetted.</li> </ol>	

**9.1.4 DRAFT LOCAL PLANNING STRATEGY**

<b>File Ref:</b>	PLN.46.20/21
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Shire wide
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 August 2022
<b>Author:</b>	Will Hosken, Town Planner
<b>Authorising Officer:</b>	David King, Deputy Chief Executive Officer
<b>Attachments:</b>	Attach 9.1.4a - Shire of Denmark Draft Local Planning Strategy Attach 9.1.4b - Preliminary Consultation Report Attach 9.1.4c - Local Planning Strategy Process Flowchart

**Summary:**

This report requests Council endorse the Draft Local Planning Strategy (Attachment 9.1.4a) for progression through the following stages:

- Referral of the Draft Local Planning Strategy to the Western Australian Planning Commission (WAPC) for certification and permission to publicly advertise the Draft Strategy.
- incorporate amendments to the Draft Local Planning Strategy that are directed by the WAPC.
- Public advertising of the Draft Local Planning Strategy for a minimum of 42 days, and
- Presentation of a report to the Council detailing, and assessing, public submissions received, and proposed finalisation of the Local Planning Strategy.

**Background:**

A local planning strategy is a non-statutory document that details the preferred strategic direction for land use planning and development outcomes. A local planning strategy is to:

- Set out long-term town and regional planning directions;

- Apply relevant state and regional planning policies; and,
- Provide rationale for changes to the local planning scheme.

A local planning strategy is primarily concerned with 'spatial' or 'land use' considerations such as the location, and distribution of land uses, the relationships between various land uses, subdivision, development and the infrastructure required to support subdivision and development. A strategy sets a vision and direction for the size, look and feel of towns, neighbourhoods and natural areas in the district over a 15-year period.

The Shire's current Local Planning Strategy (2011 LPS) was adopted by Council on 4 October 2011 and endorsed by the WAPC on 22 May 2012. The 2011 LPS addresses land use and development aspirations and provides direction for how these can be implemented through each part of the local planning framework.

A review of the 2011 LPS is necessary to reflect the significant changes that have occurred since 2011, including changes to State and regional planning policies and the finalisation of Shire's *Community Strategic Plan - Denmark 2027* (Strategic Community Plan) in 2017.

The preparation of an updated local planning strategy is also required to enable the preparation of a new local planning scheme.

#### *Review Process*

The Local Planning Strategy Working Group (Working Group) was established 19 November 2019 (Resolution 211119) to oversee the review of LPS 2011. The Working Group was comprised of three Councillors (Cr Gibson, Cr Lewis & Cr Bowley), representatives from the Department of Planning, Lands & Heritage (DPLH) and Shire staff.

The initial intent of this review was to complete an update of the 2011 LPS and a concurrent review of TPS3; however, the Working Group agreed that a comprehensive review and preparation of a new local planning strategy was required to reflect the current vision, values and needs of the community more appropriately.

A review of the 2011 LPS has included an extensive research process, key issue discussions with the Working Group, delivery of a community consultation process (detailed below) and engagement with relevant State Government agencies. The Shire also engaged appropriately qualified consultants to provide technical analysis of commercial activity, bushfire hazard levels and visual landscape values.

Following this review process, Shire staff commenced drafting a new local planning strategy, which is now presented for the consideration of Council.

A Scheme Review Report has been prepared for Town Planning Scheme No. 3 which recommends the preparation of a new local planning scheme in addition to a proposed new local planning strategy.

#### *Draft Local Planning Strategy (2022)*

The vision of the Draft Local Planning Strategy is "to support the creation of a sustainable and resilient community, providing direction for the continual improvement in land use and development planning practice, and providing a framework for growth that protects and enhances Denmark's unique character and environment". This vision is consistent with the direction provided by the Strategic Community Plan.

The Draft Local Planning Strategy's vision also incorporates a list of key objectives for future land use and development within the Shire. These objectives are grouped under the five themes of the Shire's Strategic Community Plan.

The Draft Strategy's approach is consistent with the 2011 LPS in a number of key directions, including:

- Preserving the 'village feel' of Denmark and supporting development that contributes to this.
- Reducing the impacts of urban growth by carefully managing visual and environmental impacts.
- Supporting the Denmark Town Centre as the primary focus for commercial activity.
- Protecting the ongoing viability of agricultural industries within the Shire.

The Strategy differs from the 2011 LPS in its approach to several areas, including:

- Prioritising consolidated urban growth and placing a greater emphasis on infill development to accommodate a proportion of additional housing.
- Reducing the extent of land identified for urban growth and increasing the expected yield from zoned land acknowledging our community's desire to contain unnecessary sprawl.
- Emphasising the need for housing diversity and encouraging smaller format housing to promote affordability and sustainability.
- Emphasising the need to plan for sustainable transport modes and minimising infrastructure costs.
- Reducing the expectation that expansion of the Shire's rural villages is required to accommodate growth, acknowledging that they are isolated from community services and further development is highly constrained.
- Acknowledging that large lifestyle lot subdivisions are inherently unsustainable because they increase public infrastructure costs, depend on cars for transport, consume more land and compete with other productive land uses.
- Acknowledging the potential need for an additional bridge over the Denmark River to provide alternative access in an emergency is not required as the current access is considered sufficient for the foreseeable future.

### *Next Steps*

Should the Council endorse the Draft Local Planning Strategy the following actions will be required:

- Referral of the Draft Local Planning Strategy to the WAPC to request endorsement to publicly advertise the Draft Strategy.

On behalf of the WAPC, DPLH staff will assess the Draft Strategy for procedural consistency with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and policy consistency with relevant State and regional planning documents. The WAPC may then direct the Shire to make changes to the Draft Strategy prior to public advertising; however, as the Shire's Working Group has included DPLH representatives, it is considered unlikely that any significant changes will be directed unless policy change occurs at a State level.

- Incorporation of amendments to the Draft Local Planning Strategy that are directed by the WAPC, if required.
- Public advertising of the Draft Local Planning Strategy for a minimum of 42 days.

This step is further discussed in the 'Consultation' section of this report.

- Presentation of a report to the Council detailing public submissions received, recommended changes to the Strategy resulting from public consultation (if required) and proposed finalisation of the Local Planning Strategy.

Each of these steps will be undertaken in accordance with the requirements specified in the Regulations. The full process is described in a flowchart extracted from the WAPC Local Planning Strategy Guidelines (October 2021) in Attachment 9.1.4c.

**Consultation:**

Considerable preliminary consultation was undertaken to inform the development of the Draft Strategy. On 18 February 2020 Council endorsed the Local Planning Strategy Review Communication and Engagement Plan (Resolution 050220). Preliminary consultation to understand the community's desired direction occurred between 15 July and 9 October 2020. The Shire received 8 written submissions, 26 completed surveys, and an estimated 80-100 attendees at four community workshops ('Conversation Cafes') held in Denmark (2), Nornalup and Peaceful Bay.

A Preliminary Consultation Report was prepared (Attachment 9.1.4b) to summarise the consultation process and key findings. This Report was published on the Shire's website and Your Denmark LPS webpage in November 2020. Community and landowner feedback received through this preliminary consultation process was assessed by the Working Group and used to inform the preparation of the Draft Strategy. Feedback was highly consistent with the objectives of the Strategic Community Plan.

In July 2021 an in-person LPS community update event was presented in Denmark and targeted feedback sought on several key issues under consideration, including housing diversity and density, preserving landscapes and views, tourism precincts, sustainability, and local/ regional commercial services, with attendance of less than 10 community members. The same questions were put on the Your Denmark LPS website in an online survey, with 43 responses received, providing insight into community perceptions of these topic areas.

Residents, landowners and other stakeholders will have a further opportunity to provide input during formal advertising of the Draft Strategy, which will occur following endorsement by the WAPC. Although the Regulations require a minimum of 21 days public consultation an extended period of 42 days is recommended to provide ample opportunity for public comment. This will be supported by a proactive public information campaign, including direct notification of parties who engaged in the preliminary consultation.

It is noted that this report to Council may prompt public interest in the Draft Strategy; however, the Shire will not be distributing or promoting its availability until after the WAPC has completed its review.

Discussions have been held with relevant State Government agencies during preliminary consultation and key issues were considered during the preparation of the Draft Strategy. The Draft Strategy will be referred to these agencies inviting comment.

Once the consultation period closes any submissions received will be reviewed and the need for changes to the Draft Strategy assessed.

**Statutory Obligations:**

The need for a local planning strategy and the process for preparing a strategy is outlined in the *Planning and Development Act 2005*, *Planning and Development (Local Planning Schemes) Regulations 2015* and the Western Australian Planning Commission's (WAPC) Local Planning Strategy Guidelines.

The Regulations require the preparation of a local planning strategy where a local planning scheme is to be prepared, and detail that a local planning strategy must:



- Be prepared in a manner and form approved by the WAPC.
- Set out the long-term planning directions for the local government.
- Apply any State or regional planning policy that is relevant to the strategy.
- Provide the rationale for any zoning or classification of land under the local planning scheme.

The WAPC's Local Planning Strategy Guidelines detail guiding principles and the expected scope of strategies, additional guidance for procedural steps (including public consultation), and a standard template for a local planning strategy format. The Draft Local Planning Strategy has been prepared to broadly meet the requirements of the WAPC's Local Planning Strategy Guidelines but differs in format to reduce duplication and improve legibility.

The Regulations detail procedural steps for preparing and progressing a local planning strategy that are reflected in this report. The Regulations require the local government to refer a draft local planning strategy to the WAPC for assessment before public advertising. The WAPC may require a local government to make modifications before certifying the draft strategy for advertising. If a local government wishes to advertise the draft strategy for a period of greater than 21 days this must also be requested and approved by the WAPC.

The Strategy comes into operation on the day on which it is endorsed by the Commission and the Shire's 2011 LPS is subsequently revoked.

#### **Policy Implications:**

The Draft Local Planning Strategy outlines a broad-based policy position for the Council in relation to land use planning. The Draft Strategy recommends changes to the local planning scheme and policies to enable the directions adopted in the Strategy.

The Draft Local Planning Strategy has been prepared consistent with the Shire's Strategic Community Plan, Tourism Strategy and Sustainability Strategy.

#### **Budget / Financial Implications:**

There are no known financial implications upon either the Council's current Budget or Long-Term Financial Plan.

#### **Strategic & Corporate Plan Implications:**

The Draft Strategy considers all the aspirations and objectives of the Council's adopted Strategic Community Plan *Denmark 2027* and seeks to translate these into directions for land use planning.

The preparation of the Strategy itself delivers on Community Objective B3.3 "To have a planning framework that is visionary, supports connectivity and enables participation".

Finalisation of the Draft Strategy is included within the Shire's Corporate Business Plan for 2022-23.

#### **Sustainability Implications:**

##### ➤ **Sustainability:**

Ecological sustainability has been identified as a priority in the Draft Strategy reflecting the Strategic Community Plan, Sustainability Strategy and feedback received during preliminary consultation. The Draft Strategy attempts to balance inherent tensions between environmental, social, cultural and economic values, identifying strategies and actions that represent a compromise between competing interests. The Draft Strategy represents a substantial advancement in promoting sustainability through land use planning when compared to the 2011 LPS.

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

The Draft Strategy promotes the adoption of increased environmental safeguards in the local planning framework.

➤ **Economic:**

The Draft Strategy has been supported by an assessment of potential commercial land use needs over the next 10-15 years. It provides direction aimed at resolving a number of existing constraints to developing commercial services.

➤ **Social:**

The Draft Strategy aims to address (within the limits of its scope) relevant social issues such as housing affordability, promote improved accessibility, and provide for the delivery of community services and infrastructure.

➤ **Risk:**

The author of this report has utilised the Risk Management Governance Framework and determined that there are no evident risks with a rating of medium or greater.

**Comment/Conclusion:**

The development of a Local Planning Strategy will support the delivery of the Strategic Community Plan by translating the community’s vision into land use planning outcomes. The Strategy will provide direction for the development of a local planning scheme and accompanying policies that achieve the community’s preferred pattern of land use and development form.

Endorsement of the Draft Local Planning Strategy by Council will enable referral to the WAPC for assessment. Following WAPC endorsement, the Draft Strategy will be publicly advertised to provide community feedback.

Council may request further information on specific matters of interest or propose amendments to the Draft Strategy. This may be done before, or after, the public consultation process.

It is recommended that Council endorse the proposed Draft Strategy for progression as outlined in this report.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.4
<p>That Council:</p> <ol style="list-style-type: none"> <li>1. ENDORSE the Draft Local Planning Strategy (Attachment 9.1.4a) for referral to the Western Australian Planning Commission, requesting the Commission’s assessment and consent to commence public advertising for a period of 42 days.</li> <li>2. NOTES that the WAPC may require changes to the document before providing its consent, and that officers, in consultation with the <i>Local Planning Strategy Working Group</i>, will make any necessary changes required.</li> <li>3. REQUESTS that the Chief Executive Officer provide a report back to Council informing of any changes required in (2), prior to public advertising.</li> </ol>	

## 9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

### 9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 JULY 2022

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 August 2022
<b>Author:</b>	Lee Sounness, Manager Corporate Services
<b>Authorising Officer:</b>	Gina McPharlin, Director Corporate & Community Services
<b>Attachments:</b>	9.2.1 – July 2022 Monthly Financial Report

#### Summary:

The monthly financial statement report is a standard financial reporting item prepared in accordance with the provisions of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Council is to consider the financial results for the period ending 31 July 2022.

#### Background:

In accordance with Financial Management Regulation 34, the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget under Financial Management Regulation (1) (d), for that month with the following details:

- a) annual budget estimates;
- b) budget estimates to the end of the month to which the statement relates;
- c) actual amounts of expenditure, revenue, and income to the end of the month to which the statement relates;
- d) material variances between the comparable amounts referred to in (b) and (c); and
- e) net current assets at the end of the month to which the statement relates.

#### Consultation:

Nil

#### Statutory Obligations:

LOCAL GOVERNMENT ACT 1995 S6.8 (1)(b) – a Local Government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by resolution.

#### LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 34

Regulation (1) – the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget.

Regulation (1)(d) the monthly Statement of Financial Activity includes material variances between budget estimates and actual expenditure, revenue, and income.

Regulation 34(5) - Council adopted a material variance threshold of 10% or a minimum of \$10,000, whichever is greater. (Res: 230821)

#### Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure - An explanation or report is required for levels of variances for financial reporting exceeding 10% (minimum dollar variance of \$10,000) of the annual budget estimates to the end of the month to which the report refers for each program or General/Ledger Job Account.

**Budget / Financial Implications:**

There are no significant trends or issues to be reported since the budget adoption on 2 August 2022. Some minor variances to year-to-date budgets are disclosed in Note 3(a) of the financial statements.

**Strategic & Corporate Plan Implications:**

The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.4 To be fiscally responsible

**Sustainability Implications:****➤ Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

**➤ Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

**➤ Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

**➤ Social:**

There are no known significant social considerations relating to the report or officer recommendation.

**➤ Risk:**

Nil

**Comment/Conclusion:**

The commentary contained in the body of this report is in line with Financial Management Regulation 34(2)(b), which requires explanation of material variances to the Statement of Financial Activity at the nature/type, program, or business unit level.

The Statement of Financial Activity for the period ended 31 July 2022 shows a year-to-date actual closing net current funding position of \$1,440,101 (surplus) compared to the year-to-date budget of \$1,259,866, a year-to-date variance of \$180,235.

The adopted budget for 2022/2023 was built on an estimated brought forward surplus position from 2021/2022 of \$2,192,772. The current draft financial statements for the year ended 30 June 2022 (pre-audit) show a closing net current funding position (surplus) of \$2,246,844, a variance increase of \$54,072 to budget. The estimated variance resulted from the finalisation of year-end accruals and adjustments to various restricted grants. After audit verification, this will be accounted for as part of the mid-year review expected to be presented to Council for adoption in February 2023.

Statement of Financial Activity (by Nature and Type)

Actual operating revenue is \$5,294 lower than the year-to-date budgeted amount.

The actual operating expenditure is \$420,205 less than the year-to-date budgeted amount. The variance is mainly due to the depreciation expense for all asset classes not being calculated for this reporting period. Depreciation expense will be applied once the annual audit of the financial accounts for the year ended 30 June 2022 has been completed.

There are some variances in timing for the undertaking of contracted works. (refer to Materials and Contracts Expense).

\$63,146 of capital expenditure has been spent to the end of July 2022, which aligns with the year-to-date budget estimate. This represents 0.61% of the annual budgeted capital works and is usual for this early stage of the financial year.

Outstanding Debtors (Note 4)

As at 31 July 2022, outstanding Rates Debtors totalled \$244,150 compared to \$283,890 at the same time last year.

The rates collection percentage for the year sits at 6.65% of the rates outstanding as at 30 June 2022 (see Note 4).

The rates income for the 2022-2023 budget year was not raised until August 2022 after the adoption of the budget and is not included in this financial report.

As at 31 July 2022, outstanding Sundry Debtors totalled \$208,906 compared to \$317,556 at the same time last year.

Reserves

The movement in cash backed reserve funds represents interest earned on reserve funds and transfers to and from reserves as adopted in the budget. The more significant transfers are normally performed towards the end of the financial year to coincide with the completion of the capital works program to which most transfers relate.

Cash Management

As at 31 July 2022

Cash funds held (excluding trust funds) total \$5,864,057 (Note 1).

Shire Trust Funds total \$850 (Note 9).

Reserve Funds (restricted) total \$4,808,568 (Note 5).

Municipal Funds (unrestricted) total \$1,055,489 (Note 2).

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.1
That with respect to the Financial Statements for the period ending 31 July 2022, Council RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.	

## 9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 JULY 2022

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	05 September 2022
<b>Author:</b>	Lee Sounness, Manager of Corporate Services
<b>Authorising Officer:</b>	Gina McPharlin, Director Corporate & Community Services
<b>Attachments:</b>	9.2.2 – July 2022 Monthly List of Payments Summary

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### Summary:

The purpose of this report is to advise the Council of payments made during the period 1 July 2022 to 31 July 2022.

### Background:

Nil

### Consultation:

Consultation was not required for this report.

### Statutory Obligations:

Local Government (Financial Management) Regulation 13 relates:

### Policy Implications:

Delegation Number D040201 relates:

### Budget / Financial Implications:

There are no known significant trends or issues to be reported.

### Strategic & Corporate Plan Implications:

Implement a financial strategy to ensure the Shire of Denmark's financial sustainability.

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

#### Denmark 2027

*L5.4 To be fiscally responsible*

### Sustainability Implications:

#### ➤ Governance:

There are no known significant governance considerations relating to the report or officer recommendation.

#### ➤ Environmental:

There are no known significant environmental implications relating to the report or officer recommendation.

#### ➤ Economic:

There are no known significant economic implications relating to the report or officer recommendation.

#### ➤ Social:

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Nil

**Comment/Conclusion:**

Nil

**Voting Requirements:**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.2</b>
<p>That with respect to the attached Schedule of Payments, totalling \$1,388,291.89, for the month of July 2022, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> <li>• Electronic Funds Transfers EFT33344 to EFT33532 - \$928,228.94;</li> <li>• Municipal Fund Cheque No's 60497 – 60499 - \$3,881.10;</li> <li>• Internal Account Transfers (Payroll) - \$344,942.29;</li> <li>• Direct Debit - \$8,314.74;</li> <li>• Corporate Credit Card; \$2,831.07;</li> <li>• Department of Transport Remittances; \$83,589.45, and</li> <li>• Loan Payments: \$16,504.30.</li> </ul>	

**9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 31 JULY 2022 AND AMENDMENT COUNCIL POLICY P040229 – INVESTMENTS**

<b>File Ref:</b>	FIN.19
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	31 August 2022
<b>Author:</b>	Lee Sounness, Manager Corporate Services
<b>Authorising Officer:</b>	Gina McPharlin, Director Corporate & Community Services
<b>Attachments:</b>	9.2.3a - July 2022 Investment Register 9.2.3b - P040229 Investment Policy 9.2.3c - Investment Policy - Amended

**Summary**

The monthly investment report is a standard financial reporting item prepared in accordance with the provisions of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Council is asked to receive the Investment Register for the period ending 31 July 2022 and adopt a minor amendment to Council Policy P040229 – Investments.

**Background**

The Chief Executive Officer has delegated authority to invest funds that are surplus to the Shire of Denmark's immediate requirements. Investment decisions are guided by the factors of compliance, preservation of capital, liquidity and return on investment (Council Policy P040229 – Investments).

A monthly report is presented to Council to confirm the compliance of the Council's investments within legislative and policy limits and detail investment income earned versus the budget year to date.

Council Policy P040229 is reviewed annually or, if required, in the event of legislative changes. In reviewing the Policy, an error has been identified. This report seeks an

amendment to the policy to rectify this error and is discussed in the Comment/Conclusion section of this report.

### **Consultation**

Nil.

### **Statutory Obligations**

The *Local Government Act 1995 – Section 6.14*, the *Trustees Act 1962 – Part III Investments*, the *Local Government (Financial Management) Regulations 1996 - Reg. 19, 28 and 49*, and the *Australian Accounting Standards* set out the statutory conditions under which funds can be invested.

Regulation 34 of the *Local Government (Financial Management) Regulations* requires a monthly report on the Shires Investment Portfolio to be provided to Council.

### **Policy Implications**

All investments are made in accordance with Council Policy P040229 – Investments.

### **Budget / Financial Implications**

There are no significant trends or issues to be reported.

### **Strategic & Corporate Plan Implications**

Implement a financial strategy to ensure the Shire of Denmark's financial sustainability.

The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

#### Denmark 2027

L5.4 To be fiscally responsible

### **Sustainability Implications**

#### ➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

#### ➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

#### ➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

#### ➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

#### ➤ **Risk:**

Nil.

### **Comment / Conclusion**

Local Government (Financial Management) Regulations 1996 - Reg. 19(2)(c) restricts a local government from investing with a term of more than three (3) years.

An error has been identified in Council Policy P040229 – Investments. Under the Policy's Risk Management Guideline narrative, criteria 3) Term to Maturity Framework, a deposit term is allowable for up to five (5) years. Attachment 9.2.3a, Investments Policy – amended corrects the deposit term to three (3) years.



The amendment reducing the allowable term to maturity from five (5) to three (3) years will not impact the Shires investment portfolio as all Shire investments are within the required three (3) year term.

Minor grammatical changes have also been made to the Investment Policy to improve readability.

The attached Investment Register summarises how funds are invested as per the Shires Investment Policy and reports on the Investment Portfolio balance as at 31 July 2022.

The Investment Portfolio complies with the criteria of Investment Policy P040229 with the portfolio balance mix meeting the requirement of no single institution holding more than 50% of the total funds invested, and an individual institution’s Standard & Poor’s (S&P) credit rating meeting the required threshold to limit single entity exposure.

The total Reserve Funds invested as at 31 July 2022 totals \$4,808,568.

The total Municipal Funds Invested as at 31 July 2022 totals \$750,000.

The Reserve Bank of Australia (RBA) has altered its cash rate for this month. The cash rate is now set at 1.35%.

**Voting Requirements**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.3
<p>That Council;</p> <ol style="list-style-type: none"> <li>1. REPLACE the Investment Policy P040229 with the amended Investment Policy (Attachment 9.2.3c); and</li> <li>2. RECEIVE the Investment Register (Attachment 9.2.3a) for the period ended 31 July 2022.</li> </ol>	

**9.2.4 AMENDMENT OF P040113 CITIZENS & SPORTSPERSONS OF THE YEAR POLICY**

<b>File Ref:</b>	ADMIN.2
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	8 September 2022
<b>Author:</b>	Gina McPharlin, Director Corporate & Community Services
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.2.4a - P040113 Citizens & Sportspersons of the Year 9.2.4b - Denmark Citizen of the Year Award – draft 9.2.4c - Sportsperson of the Year Awards - draft

**Summary**

The purpose of this report is to request that Council adopt the Denmark Citizen of the Year Awards Policy and Sportsperson of the Year Awards Policy to replace the P040113 Citizens & Sportspersons of the Year Awards and adopt the revised Citizenship Ceremonies Policy.

The amended award policies:

- renames the Australia Day Active Citizenship Awards to the Denmark Citizen of the Year Awards.
- allow for the awards ceremonies to be held at a suitable function (determined by the Director Corporate & Community Services) in conjunction with Volunteer Week.

- remove the requirement for nominees to be Australian citizens.
- clarifies the Sportsperson of the Year selection process.

### **Background**

The objective of the Shire of Denmark's Citizens & Sportspersons of the Year Policy (P040113) (refer to attachment 8.2.2.2 P040113 Citizens & Sportspersons of the Year) is to publicly recognise individuals and groups within two (2) award categories;

- Australia Day Active Citizenship Awards, and
- Sportspersons of the Year.

The Australia Day Active Citizenship Awards has four (4) Citizen of the Year categories: Citizen of the Year, Citizen of the Year - Youth, Citizen of the Year – Senior and Active Citizen Award (community group or event). The award acknowledges local individuals and community groups (or events) who have contributed significantly to the Denmark Community beyond their civic duties.

The Australia Day Active Citizenship Awards commenced before 1983 and continue to be well supported by the Denmark Community, attracting quality nominees each year. With annual nominees ranging from ten to thirty-seven individuals or community groups in the last five (5) years.

The Sportspersons of the Year Awards celebrate individuals who have achieved outstanding sporting success or made a significant contribution to the sports and recreation culture in the Shire of Denmark. The awards have three (3) categories: Junior Sportsperson of the Year, Senior Sportsperson of the Year and Service to Sport Award.

Annual recipients of Australia Day Active Citizenship Awards and Sportspersons of the Year Awards are awarded at the Shire's Australia Day Event held on 26 January.

### **Consultation**

Officers have discussed the policies with Councillors during two (2) informal Concept Briefings.

Officers have not engaged in external consultation. However, during the nomination period for the 2022 awards, the Shire received feedback from community members that they were not supportive of receiving the award at a function held during an Australia Day event. While this feedback does not necessarily represent the whole community, Officers have considered it when drafting the amended policies.

### **Statutory Obligations**

LOCAL GOVERNMENT ACT 1995 Section 2.7(2)(b) - The Council is to determine the local government's policies.

### **Policy Implications**

Council is asked to repeal P040113 Citizens & Sportspersons of the Year Awards. The and with the Denmark Citizen of the Year Awards policy (refer to attachment 8.2.2.4 Denmark Citizen of the Year Award – draft) and the Sportsperson of the Year Awards policy (refer to attachment 8.2.2.5 Sportsperson of the Year Awards – draft). The changes to the policies are discussed in the comment/conclusion section of this report.

### **Budget / Financial Implications**

\$14,056 is included in the adopted 2022/23 Budget for Australia Day (1410252).

Expenses associated with the Denmark Citizen of the Year Award and Sportspersons of the Year Awards total approximately \$1,000, which cover advertising, award certificates and gifts and is included in the Australia Day budget.

It is also acknowledged that the 2021 and 2022 Australia Day events attracted additional external funding of \$9,000 and \$10,000 (respectively) to hold Covid Safe Australia Day events. This funding will not be received for 2023.

### **Strategic & Corporate Plan Implications**

The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives in the following specific way:

#### Denmark 2027

C4.1 To have services that foster a happy, healthy, vibrant and safe community

### **Sustainability Implications**

#### ➤ **Governance:**

Provide clear guidance to the Shire's administration and the community on the Council's position.

#### ➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

#### ➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

#### ➤ **Social:**

Denmark Shire Awards foster a sense of community pride and encourage active community engagement. The amended award policies remove the requirement for nominees to be Australian citizens and ensure inclusivity.

The Shire is aware that the community holds differing views on Australia Day, and changing the presentation of awards to an event in conjunction with the Shire's Volunteer Week activities ensures all community members are comfortable participating.

#### ➤ **Risk:**

Nil.

### **Comment / Conclusion**

The Citizen & Sportsperson of the Year Award policy (P040113) has been amended and separated into two (2) separate policies.

- Denmark Citizen of the Year Awards (See Attachment 9.2.4b); and
- Sportsperson of the Year Awards (See Attachment 9.2.4c).

The amended award policies remove the requirement for nominees to be Australian citizens in order to reflect the diversity of citizens in the Shire of Denmark and ensure all community contributions and achievements can be equally recognised. They also allow for award presentations to be facilitated during the Shire's Volunteer Week activities (in May each year), a time when the Shire acknowledges and thanks volunteers for the valuable contribution they make to the Denmark community.

The Denmark Citizen of the Year Awards renames the Australia Day Active Citizenship Awards to the Denmark Citizen of the Year Awards. The renaming is appropriate because the awards will no longer be presented on Australia Day, and the community awards will

no longer align with the State Government Citizen of the Year Award program facilitated by *Auspire*.

The amended Sports person of the Year Awards policy clarifies the awards selection process and will improve the transparency of the nomination process and recipient selection.

In writing this report, officers have also considered the broader national Australia Day date conversation and acknowledge that it is complex. The day can mean different things for different people, can be challenging for some and celebratory for others. It is recommended that the Shire begins community engagement as part of its "respectful relationships" and reconciliation journey to understand the local community's sentiment toward Australia Day.

**Voting Requirements**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.4
<p>That Council;</p> <ol style="list-style-type: none"> <li>1. REPEAL Council Policy P040113 Citizens &amp; Sports persons of the Year (Attachment 9.2.4a);</li> <li>2. ADOPT the Denmark Citizen of the Year Awards Policy, as per Attachment 9.2.4b; and</li> <li>3. ADOPT the Sports person of the Year Awards Policy, as per Attachment 9.2.4c.</li> </ol>	

**9.2.5 REVIEW OF THE DENMARK AGRICULTURAL COLLEGE SCHOLARSHIP AND THE SHIRE OF DENMARK LEADERSHIP AWARD POLICIES**

<b>File Ref:</b>	ADMIN.2
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	2 September 2022
<b>Author:</b>	Rosemarie Arnephie, Community Development Officer
<b>Authorising Officer:</b>	Gina McPharlin, Director Corporate and Community Services
<b>Attachments:</b>	9.2.5a - P080201 Denmark Agricultural College Scholarship and P080202 Shire of Denmark Leadership Award 9.2.5b – Draft Denmark Agricultural College Scholarship 9.2.5c – Draft Denmark Senior High School Community Service Awards

**Summary:**

The purpose of this report is to request that Council adopt the revised Policy P080201 Denmark Agricultural College Scholarship and replace Policy P080202 Shire of Denmark Leadership Award with the Denmark Senior High School Community Service Awards.

The revised policy (P080201) seeks to enable the WA College of Agriculture-Denmark to administer and select the winning recipient for the Denmark Agricultural College Scholarship.

The new policy seeks to enable a Community Service Award and to enable the Denmark Senior High School to administer and select the winning recipient.

**Background:**

The Denmark Agricultural College Scholarship aims to encourage Year 9 or 10 students to pursue further education in agriculture.

The Denmark Senior High School Community Service Awards aims to publicly recognise and award students in Year 12 for excellence in community service and participation and to encourage young people to contribute to their community through volunteering.

**Consultation:**

The officer completed an evaluation of the programs and consulted with Denmark Agricultural College and Denmark Senior High School.

Officers have taken feedback from Denmark Senior High School students into consideration.

**Statutory Obligations:**

LOCAL GOVERNMENT ACT 1995

Section 2.7(2)(b) Role of Council (2) The Council is to determine the local government's policies

**Policy Implications:**

The current Shire of Denmark Agricultural College Scholarship Policy is attached (see Attachment 9.2.5a). The amended policy is as per Attachment 9.2.5b.

The current Leadership Award Policy is attached (see Attachment 9.2.5a) and the new policy is as per Attachment 9.2.5c.

**Budget / Financial Implications:**

The 2022/23 Council Budget includes \$1,500 for the 2022 Denmark Agricultural College Scholarship (GL1610832) and \$1,000 for the Leadership Award.

The Denmark Agricultural College and the Denmark Senior High School have requested for this award to be reduced to \$500, in order to align the monetary value of this award with the value of other student awards. The reduction in the line item will be included in the mid-year budget review undertaken in February 2023.

**Strategic & Corporate Plan Implications:**

The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

E1.0 Our Economy

We are an attractive location to live, invest, study, visit and work.

E1.3 To have diverse education and employment opportunities.

E1.4 To recognise the importance of agriculture in our local economy and protect prime agricultural land.

Corporate Business Plan.

The 2021-2024 Corporate Business Plan lists the Denmark Agricultural College Scholarship as a program deliverable by the Community Services Team.

**Sustainability Implications:**

➤ **Governance:**

Council policies provide guidance to the Shire's Administration and the community on the Council's position.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

The Shire of Denmark College Agricultural Scholarship is an opportunity for Council to encourage and assist a local young person to pursue a career in agriculture and related fields of study.

The new proposed Shire of Denmark Senior High School Community Service Awards provides an opportunity for Council to recognise and acknowledge young people's contributions to the Denmark community. The award also fosters a sense of community pride and seeks to encourage active community engagement.

➤ **Risk:**

Nil.

**Comment/Conclusion:**

The purpose of reviewing the policies is to implement the recommendations from the WA College of Agriculture-Denmark and the Denmark Senior High School following the evaluations conducted for the Agricultural College Scholarship and the Leadership Award programs. The policy review found the following:

Leadership Award

- Participation has been low in the past four (4) years.
- Feedback from the Denmark Senior High School students and principal indicated that the program is not fit for purpose and duplicates an existing program provided by the Australian Defence Force.
- The school recommended replacing the Leadership Award with Community Service Awards program, which they believe will fill a gap in their current awards program.

Agricultural College Scholarship

The WA College of Agriculture-Denmark has recommended the administration and management of the scholarship be entrusted to the College. This will bring the Shire of Denmark's scholarship in line with its other scholarship programs and enable the College to align the award application opening and closing dates with its enrolment intake.

The above review findings have been taken into consideration and incorporated into the amended Denmark Agriculture College Scholarship and the new Denmark Senior High School Community Service Awards.

Please note: Administratively, the Council's policies are gradually being converted to standalone policies rather than recorded in one single document (Policy Manual).

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.5
<p>That Council:</p> <ol style="list-style-type: none"> <li>1. REPEAL the Shire of Denmark Leadership Award policy;</li> <li>2. ADOPT the amended Denmark Agricultural College Scholarship Policy, as per Attachment 9.2.5b; and</li> <li>3. ADOPT the new Denmark Senior High School Community Service Award, as per Attachment 9.2.5c.</li> </ol>	

**9.3 CHIEF EXECUTIVE OFFICER**

**9.3.1 ELECTED MEMBER ALLOWANCES AND EXPENSES POLICY**

<b>File Ref:</b>	ADMIN.2
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	8 August 2022
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.1 – Draft Elected Member Allowances and Expenses Policy

**Summary:**  
 Attached is a draft Elected Member Allowances and Expenses Policy for Council's consideration and adoption.

**Background:**  
 In 2019, a review of the Shire's financial management, risk management, legislative compliance and internal controls was completed by a consultant engaged by the Shire. The review identified a number of areas that could be improved including a review of the Reimbursement of Elected Members Travel Expenses Policy.

**Consultation:**  
 Relevant Shire officers have provided input, and Councillors have received an informal briefing, on the draft policy.

**Statutory Obligations:**

**LOCAL GOVERNMENT ACT 1995**

Section 2.7(2)(b) – Council can determine policies.

Section 5.98(1) and (2A) – a council member who attends a council, committee or other prescribed meeting is entitled to be paid an allowance. The amount is determined annually when the budget is adopted, in accordance with s 5.99.

Section 5.98(2)—(4) – a council member is entitled to be reimbursed for expenses which may be approved by the local government or have been approved by the local government.

**LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996**

Regulation 31 – prescribes the kinds of expenses that are to be reimbursed which are rental charges for one telephone, child care costs and travel costs.

Regulation 32 – prescribes that a local government may approve other kinds of expenses to be reimbursed. These can include expenses incurred in performing a function;

- under the express authority of the local government; and/or
- in his or her capacity as a council member.

## SALARIES AND ALLOWANCES ACT 1975

Section 7B – states that the Salaries and Allowances Tribunal is to make determinations as to fees and allowances of local government councillors.

### Policy Implications:

The current Council Policy is copied below.

#### P040129 REIMBURSEMENT OF ELECTED MEMBERS TRAVEL EXPENSES

*Council shall pay to the Shire President, Deputy Shire President and Councillors travelling expenses for attending Ordinary and Special Meetings of Council and for attending meetings of Committees when acting in the capacity of a member of that Committee.*

*In addition, travel expense will be reimbursed for attendance at the following:*

- *Annual Meetings of Electors.*
- *Special Meeting of Electors.*
- *Civic receptions hosted by the Shire.*
- *Visits by a Minister of the Crown.*
- *Council inspection tours.*
- *Council workshops & briefing forums.*
- *Attendance at training and conferences authorised in advance by Council or the CEO.*
- *Other meetings and events authorised in advance by Council, the Shire President or the CEO.*
- *Attendance at meetings of community organisations where the elected member is Councils appointed delegate.*
- *Attendance at onsite inspections in their capacity as a Council member with such claims to be cross referenced in the Members Reports submitted for inclusion in the Information Bulletin on a monthly basis.*

*Expenses shall be paid on a recoup basis, with a formal claim required to be submitted that details the number of kilometres travelled from the Elected Members place of residence to the end destination and return.*

*The rate per kilometre that is to be reimbursed pursuant to section 7A of the Salaries and Allowances Act 1975, is to be the same rate contained in section 30.6 of the Local Government Officers (Western Australia) Interim Award 2011 as at the date of the latest determination.*

*Where practical, Elected Members are encouraged to use the existing administration vehicles for attendance at a meeting etc that is located outside of the Shire of Denmark boundary.*

*A Claim Form is to be prepared by the Director Corporate and Community Services that contains a declaration to the effect that the expenses being claimed were in fact incurred by the Elected Member.*

*Council recognises Elected Members personal circumstances and will pay additional mileage where additional travel time is required to arrange for the care of children and other dependants.*



Shire officers are in the process of converting all of the numbered policies within the Council's Policy Manual into "stand alone" policies. The current policy would be repealed in the manual and replaced by a single "stand alone" policy.

### **Budget / Financial Implications:**

The Salaries and Allowances Tribunal have made the following determinations for elected members, dated 7 April 2022. The Shire of Denmark comes under Band 3.

Council have already resolved to be remunerated annually for meeting attendance fees. This was decided at the Special Council Meeting held on 2 August 2022 when the 2022/23 Budget was adopted.

### Extent of Expenses to be Reimbursed

1. Telephone Rental – the actual expense incurred.
2. Child care costs – actual cost per hour or \$35 per hour, whichever is the lesser amount.
3. Reasonable travel costs – actual cost, calculated at the same rate contained in Section 30.6 of the *Local Government Officers' (Western Australia) Award 2021* as at the date of the determination.
4. Intrastate or interstate travel and accommodation – at the same rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the *Public Service Award 1992* as at the date of the determination.

The 2022/23 Budget has sufficient financial provision in order to comply with the updated policy.

### **Strategic & Corporate Plan Implications:**

The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

#### Denmark 2027

L5.0 Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

*L5.1 To be high functioning, open, transparent, ethical and responsive.*

*L5.3 To be decisive and to make consistent and well considered decisions.*

*L5.4 To be fiscally responsible.*

#### Corporate Business Plan

- Council Policy Review

### **Sustainability Implications:**

#### ➤ **Sustainability:**

There are no known significant governance considerations relating to the report or officer recommendation.

#### ➤ **Governance:**

Providing councillors with adequate financial support may remove a barrier that prospective candidates may face when wishing to nominate for council.

#### ➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Nil

**Comment/Conclusion:**

The new policy includes provisions relating to child care expenses (which are required to be reimbursed), information and communication technology (ICT) expenses, meals, other equipment and stationery.

The policy also speaks to meeting allowances (attendance fees that are paid annually and determined through budget deliberations) and insurance cover.

The policy's objective is to provide financial support to enable councillors to effectively carry out their role and functions, and reduce financial barriers for persons wishing to nominate for council.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.1
That Council adopt the Elected Member Allowances and Expenses Policy, as per Attachment 9.3.1.	

**9.3.2 CORPORATE BUSINESS PLAN**

<b>File Ref:</b>	ADMIN.13
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 July 2022
<b>Author:</b>	David Schober, Chief Executive Officer Courtney Walsh, Communication and Engagement Officer
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.2 - Draft Corporate Business Plan 2022-2025

**Summary:**

The purpose of this report is for Council to consider the adoption of the 2022-2025 Corporate Business Plan.

**Background:**

To fulfil the statutory obligations of section 5.56 of the Local Government Act 1995, the Local Government (Administration) Regulations 1996 require each Local Government to adopt a Strategic Community Plan and Corporate Business Plan as part of a 'Plan for the Future'.

Denmark 2027 – Plans and Strategic Interconnections



The Strategic Community Plan *Denmark 2027* is Council’s principal strategic document that links community aspirations with Council’s vision and long-term plan.

The Corporate Business Plan, Attachment 9.3.2, is the Shire’s four-year plan that provides direction on how the vision and long-term plan will be activated. The Corporate Business Plan identifies projects, initiatives and actions that the Shire will undertake over the next four years to improve operations whilst delivering key services and facilities, which support the community.

**Consultation:**

As part of organisation-wide planning, Officers and Councillors have scrutinised projects within the Corporate Business Plan to ensure they are:

- prioritised as a strategic fit to the objectives of *Denmark 2027*
- linked to achieving outcomes in Council endorsed strategies and masterplans
- within budget as laid out in the Long Term Financial Plan.

The Shire’s Corporate Business Plan is a document that seeks to activate, plan for and resource the aspirations of the community, which are outlined in the Strategic Community Plan *Denmark 2027*. As such, consultation and collaboration on the Corporate Business Plan has occurred within the organisation and with Council.

**Statutory Obligations:**

The requirements for the preparation of a Corporate Business Plan are detailed in the Local Government Act 1995.

Further guidance on the achievement of best practice standards is outlined within the Department of Local Government and Communities *Integrated Planning and Reporting Framework* and *Advisory Standards and website*.

*Extract Local Government Act 1995*

5.56. *Planning for the future*

- (1) *A local government is to plan for the future of the district.*

- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

The Local Government Administration Regulations 1996 state:

**19DA. Corporate business plans, requirements for (Act s. 5.56)**

- (1) *A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
- (2) *A corporate business plan for a district is to cover the period specified in the plan, which is to be at least four financial years.*
- (3) *A corporate business plan for a district is to —*
- (a) *set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and*
  - (b) *govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and*
  - (c) *develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.*
- (4) *A local government is to review the current corporate business plan for its district every year.*
- (5) *A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.*
- (6) *A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine whether or not to adopt the plan or the modifications.*
- (7) *If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*

**Policy Implications:**

There are no policy implications as the development of a Corporate Business Plan is a legislative requirement.

**Budget / Financial Implications:**

The first year of the Corporate Business Plan aligns with the activities and projects identified in the 2022/23 Annual Budget. Funding for projects and activities listed for future years is accounted for in the Long Term Financial Plan and will provide the basis for items considered in future Annual Budgets.

**Strategic Implications:**

The report and officer recommendation are consistent with the Local Government (Administration) Regulations 1996 and the Department of Local Government and Communities' Advisory Standard.

**Sustainability Implications:**

*Sustainability Strategy 2021-2031*

➤ **Governance:**

Beyond statutory obligations already outlined, the adoption and subsequent monitoring of the Corporate Business Plan will improve the organisation's control, management and

reporting of projects and provide greater transparency on projects that are not completed or are deferred for operational reasons.

➤ **Environmental:**

There is a clear link between the activities in the Corporate Business Plan and the actions recommended in the Sustainability Action Plan 2021, which will be delivered across the organisation, ensuring the principles of the Sustainability Strategy are embedded in Shire activities.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

It is envisaged that the revised structure of the Corporate Business Plan will provide the public with a reader-friendly document that clearly outlines the activities and services planned for the Shire over the next four years.

➤ **Risk:**

Nil.

**Comment/Conclusion:**

The Corporate Business Plan is reviewed each year as the organisation’s financial position is further refined, ensuring that the Shire can capitalise on any new opportunities as they present. A number of the projects identified in the Corporate Business Plan are either solely, or partially, reliant on securing external funding over the life of the plan. Changing funding streams may result in changes to the planned year of delivery for some projects.

Actions within the Corporate Business Plan will form key performance indicators for Shire of Denmark staff. The Shire’s Executive and Management team meet monthly to track the progress of the Corporate Business Plan projects, ensuring that risks to delivery are minimised and opportunities to support delivery are maximised.

**Voting Requirements:**

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.2
Council ADOPT the Corporate Business Plan, as per Attachment 9.3.2, for effect from the current financial year through to June 2026.	

\* *Absolute majority required.*

**9.3.3 DENMARK COTTAGE CRAFTS INC. LEASE**

<b>File Ref:</b>	LEA.45
<b>Applicant / Proponent:</b>	Denmark Cottage Crafts Inc.
<b>Subject Land / Locality:</b>	Portion of Lot 41 on Deposited Plan 222379 (No. 5 Mitchell Street, Denmark)
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	11 August 2022
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.3 - Draft Lease

**Summary:**

Council is asked to approve a new lease between the Shire of Denmark and the Denmark Cottage Crafts Incorporated for the building located at 5 Mitchell Street, Denmark.

**Background:**

DENMARK COTTAGE CRAFTS INC. (information provided by the Denmark Cottage Crafts Inc.)

The Denmark Cottage Crafts Inc. ('DCC') was founded in 1970 to provide a meeting place and avenue for craftspeople in Denmark. It operates a retail outlet which was opened shortly after its inception.

The DCC have 55 members and they only allow members who reside in Denmark.

Members make a variety of handmade goods including jams and pickles, biscuits, produce, knitting, crochet, sewing, woodwork, papercraft and the like.

The shop only sells handmade member products, is open six days a week and is staffed by volunteers. They are a not-for-profit organisation and every year they donate any excess profits to causes within or affecting those within Denmark. The annual donation(s) is usually around \$6,000.

**LEASE**

The first lease between the Shire of Denmark and the Denmark Cottage Crafts Inc. began in 1989. The current lease expired in November 2019 and they have been occupying the premises as a monthly tenant.

**Consultation:**

Councillors have previously been briefed on the proposed new lease at an informal meeting.

Shire officers have worked with the Denmark Cottage Crafts Inc. to establish the draft lease.

**Statutory Obligations:****LOCAL GOVERNMENT ACT 1995**

Section 3.58 – a local government may dispose of property, including to lease.

**LOCAL GOVERNMENT (FUNCTIONS & GENERAL) REGULATIONS 1996**

Regulation 30(2)(b) – leasing of land to a body whose objects are charitable, benevolent, recreational, sporting or other like nature, and the members of which are not entitled to receive any pecuniary profit from the transaction, are exempt from disposal provisions under s 3.58.

**Policy Implications:**

Policy P110102 – Leasing of Land and/or Buildings to Community Groups relates. The items that specifically relate to this proposal are:

1. There be a signed lease.
2. Desire for lessees to be incorporated, but not essential.
3. Rate exemption be offered.
4. Have differing rentals discounted to market valuation depending upon the following factors;
  - a) To what degree the property is utilised for charitable, not for profit or sporting purposes;
  - b) The ability of the lessee to derive income from use of the property including sub-leases, rental hire and the presence of a liquor license;
  - c) The strategic value of the land in the short term to Council;
  - d) To what degree if any that the use is competing with commercial enterprise;
5. Costs of outgoings to be met by the lessee.

**Budget / Financial Implications:**

Between 1989 and 2014 the Denmark Cottage Crafts Inc. paid an annual rent of between \$440 and \$540. Since 2014, they have been paying \$1.00 which is aligned with most other community group leases.

Out of 28 community group leases, the following three pay \$5.00 annually. All 28 currently have their rates waived by the Council each year.

- Peaceful Bay Sea Rescue Group      lease commenced 2003.
- Denmark Country Club                  lease commenced 1994.
- Denmark Scouts                          lease commenced 2002.

The attached lease recommends an annual rent of \$1.00 and that Council consider waiving the rates each year.

As with most community owned buildings, the Shire pays for the building insurance. The lessee is required to have their own public liability and insure their own contents, members, stock etc.

**Strategic & Corporate Plan Implications:**

The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

## B3.0 Our Built Environment

B3.4 To manage assets in a consistent and sustainable manner.

## L5.0 Our Local Government

*The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.*

L5.1 To be high functioning, open, transparent, ethical and responsive.

L5.2 To have meaningful, respectful and proactive collaboration with the community.

L5.3 To be decisive and to make consistent and well considered decisions.

Corporate Business Plan

Nil

**Sustainability Implications:**➤ **Sustainability:**

## 01 Health &amp; Happiness

1.3 Prioritise investment in community initiatives to improve health, well-being and community connection.

➤ **Governance:**

Community groups that lease community buildings are required to maintain them and keep them in good repair throughout the term of the lease. This provides a benefit to the Shire by transferring the responsibility, and cost, from the lessor to the lessee.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

The Denmark Cottage Crafts Inc. have 55 members and have created a space for like minded craftspeople to engage and interact with one another. The shop has proven to be quite popular with visitors as it showcases locally made produce and the DCC Committee is well structured to continue into managing their activities, and the building, into the future.

➤ **Risk:**

Nil

**Comment/Conclusion:**

Officers are recommending that Council approve the attached draft lease for a term of 10 years.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.3
<p>That with respect to the lease between the Shire of Denmark and the Denmark Cottage Crafts Inc. for a portion of Lot 41 on Deposited Plan 222379, Reserve 26026, Council;</p> <ol style="list-style-type: none"> <li>1. APPROVE the draft lease, as per Attachment 9.3.4; and</li> <li>2. AUTHORISE the Chief Executive Officer and Shire President to execute the lease, subject to obtaining Ministerial Approval, in accordance with section 18 of the Land Administration Act 1997.</li> </ol>	

**9.3.4 DRAFT CATS LOCAL LAW – CONSIDERATION OF SUBMISSIONS AND MAKING OF LOCAL LAW**

<b>File Ref:</b>	LEG.1
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5 September 2022
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.4a - Submissions 9.3.4b - Draft Shire of Denmark Cats Local Law

**Summary:**

To consider submissions received on the draft Cats Local Law and determine whether to make the local law.

**Background:**

Clause 5.2.4 of the *Shire of Denmark Health Local Laws 1998* deals with the keeping of cats in the district. The proposed new local law would repeal any provisions related to cats in the existing *Health Local Law*.

The *Cat Act 2011* requires that keepers of cats must register them with the local government where they are normally kept, cats must be microchipped, and sterilised unless exempt.

There are 183 cats registered with the Shire of Denmark.

The *Cat Act 2011* does not deal with nuisance cats or the standard number of cats per premises within a local government area which is why the Council included the development of a local law in the Corporate Business Plan.



At the meeting held on 21 June 2022, Council considered the draft local law and resolved as follows (Resolution No. 200622):

*“That Council:*

1. *In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, GIVES local public notice stating that:*
  - (a) It is proposed to make a Shire of Denmark Cats Local Law, and a summary of its purpose and effect;*
  - (b) Copies of the proposed local law may be inspected at the Shire offices or on the Shire of Denmark’s website;*
  - (c) Written submissions (including via email) about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
2. *In accordance with section 3.12(3)(b) of the Act, as soon as the notice is given sends a copy of the proposed local law to the Minister for Local Government;*
3. *In accordance with section 3.12(3)(c) of the Act, supply a copy of the proposed local law to any person requesting it; and*
4. *Notes that the results of the public consultation be presented to Council for consideration of any submissions received.”*

**Consultation:**

Section 3(2) of the Cat Act provides that words and expressions defined in the Local Government Act 1995 have the same meaning in the Cat Act, unless the contrary intention appears. This includes making local laws, and using the process set out in section 3.12(4) of the *Local Government Act 1995*. This requires a local government to consider any submissions received before agreeing to make a local law.

Council’s intention to make a Cats Local Law was advertised for a period of six weeks and 45 submissions were received. (See Attachment 9.3.4a). A copy of the notice was also provided to the Minister for Local Government on 13 July 2022, as required by law. No comment has been received from the Minister’s office at the date of writing this report.

Submitters were overwhelming in support of the proposed the local law.

There were some concerns raised about the proposal. These are summarised below with officer comment provided.

- the local law doesn’t (or couldn’t) go far enough and would not curb the damage caused by cats.

*Comment: The Cat Act 2011 stipulates the types of provisions that a local government can include in a local law. The proposed local law complies with those provisions and, apart from specifying particular cases where cats are not permitted, goes as far as it can to restrict the movement of cats within the district.*

- It is an infringement on personal freedoms and that the focus should be on feral cats.

*Comment: The proposed local law does impede somewhat on a cat owner’s freedom however, the intention of the new laws is to set a standard number of cats at a premises and deal with cats that are a nuisance. Unfortunately, to achieve this purpose, there must be some imposition on freedom. The Council could consider implementing a feral cat eradication program however, this would need to be costed and appropriately resourced and assessed against the Shire’s other competing projects.*

- It is a waste of time; the problem is with unsterilized cats.

*Comment: The Cat Act 2011 requires that all cats be sterilized unless the owner has an exemption. It is hoped that an education campaign will help raise awareness of this requirement.*

- Cats are important for the control of mice and rats.

*Comment: The proposed local law allows up to 2 cats per premises.*

- The Shire may not have sufficient rangers to police it.

*Comment: It is unknown at this stage whether the Shire has sufficient resources to enforce the proposed local law. Should this become an issue, the Chief Executive Officer would need to consider whether additional resources are required.*

- There shouldn't be any limit on the number of cats, others believed that there needs to be a limit.

*Comment: Noted.*

- The local law won't do anything to stop the damage cause by cats.

*Comment: This is unknown at this stage.*

Should Council resolve to make a Cats Local Law it is required to be gazetted and will come into effect from the date that it is published in the Government Gazette.

The *Local Government Act 1995* also requires the local government to, 'take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws'.

It is recommended that the Shire embark on an educative campaign should the local law be made.

**Statutory Obligations:**

The *Cat Regulations 2012* deals with matters such as:

- Microchipping;
- Registration and registration periods;
- Applications for approval to breed cats;
- Registration fees; and
- Application fees to obtain a permit to breed cats.

The *Cat (Uniform Local Provisions) Regulations 2013* operate as if they are local laws. Amongst other things these Regulations provide for:

- Local laws to determine what is the 'standard number' of cats that can be kept, excluding cats under the age of 6 months;
- If a member of a 'cat organisation' is normally resident on the premises, then the number of cats that can be kept on premises to be 3 times the standard number;
- Catteries; and
- Applications to keep additional numbers of cats.

Local laws that deal with cats must comply with the Cat Act and associated Regulations. What can be dealt with by local laws is set out in section 79 of the Cat Act:

**79. Local laws**

(1) ...

(2) ...

(3) Without limiting subsection (1), a local law may be made as to one or more of the following —

- (a) *the registration of cats;*
- (b) *removing and impounding cats;*
- (c) *keeping, transferring and disposing of cats kept at cat management facilities;*
- (d) *the humane destruction of cats;*
- (e) *cats creating a nuisance;*
- (f) *specifying places where cats are prohibited absolutely;*
- (g) *requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;*
- (h) *limiting the number of cats that may be kept at premises, or premises of a particular type;*
- (i) *the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;*
- (j) *the regulation of approved cat breeders, including record keeping and inspection;*
- (k) *fees and charges payable in respect of any matter under this Act.*

As noted above, as cats are now regulated under different legislation to the Health Act it is preferable to make a new Cats Local Law to ensure compliance with the Cat Act and its associated Regulations.

In addition, the Shire could consider if it is suitable to introduce any provisions to seek to deal with nuisances that may be caused by cats, and/or specified areas where cats could be prohibited from being.

#### LOCAL GOVERNMENT ACT 1995

Part 3, division 2 provides the procedure for making or amending local laws.

Section 3.12(4) requires that the local government consider any submissions and permits the Council to make the local law, providing what is made is not significantly different from what was proposed.

Section 3.13 states that, 'if during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure'.

Local Laws come into effect 14 days after publication in the *Government Gazette*.

Note that under s3.12(7) of the Local Government Act, the Minister for Local Government has issued directions under which local governments are required to submit local laws for review by the WA Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL). If the JSCDL believes that a local law has not been properly made, is not in accordance with enabling legislation, or offends its terms of reference it may recommend that Parliament disallow the local law in its entirety.

If any issues arise however, the JSCDL usually requests that the local government undertake to amend the local law and not to enforce it in a manner contrary to the undertaking in the meantime.

Section 5.42 permits the Council to delegate functions and powers to the CEO.

Section 6.16 permits the Council to impose a fees and charges.

#### **Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

There are costs associated with publishing a new local law in the Government Gazette. This can be accommodated within the adopted budget.

In addition, subject to future budgetary discussions, a publicity and incentive scheme aimed at cat owners to voluntarily confine cats is considered appropriate.

**NEW FEES**

The proposed local law contains three elements that require the Council to establish an appropriate fee. Officers have recommended the following, based on the current fees that relate to dogs. The fees are all GST exempt.

Application Fee (clause 2.5)	\$250.00
Renewal Fee (clause 2.7)	\$100.00
Transfer Fee (clause 2.8)	\$100.00

**EDUCATION CAMPAIGN**

If the Cats Local Law is adopted by the Council, Officers recommend that the Shire commence a broad education campaign around the new laws, promoting responsible cat ownership and iterating the requirements under the *Cat Act 2011*. It is believed that this can be achieved in a cost-effective manner within the Council’s existing advertising budget.

**Strategic & Corporate Plan Implications:**

The report and officer recommendation are consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

N2.0 Our Natural Environment  
Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future.

N2.1 To preserve and protect the natural environment.

L5.0 Our Local Government  
The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

L5.1 To be high functioning, open, transparent, ethical and responsive.

L5.3 To be decisive and to make consistent and well considered decisions.

Corporate Business Plan

Governance Project:

- Cat Local Law  
Action: Regulate to introduce a local law regarding keeping cats within the Shire, including the number that can be kept, the places where cats can be kept and the areas where cats are prohibited.

**Sustainability Implications:**

➤ **Sustainability Strategy:**

04 Land & Nature

4.4 Support provision of education to the broader community on protection of the natural environment.

➤ **Governance:**

If the draft local law is ‘made’, it is recommended that the Council delegate power to the CEO under s5.42 of the Local Government to decide applications to keep more than the

recommended standard number of cats (currently two, and which is proposed to be continued under the new local law).

A delegation can include conditions.

➤ **Environmental:**

The proposed local law and associated education initiatives have the potential to change behaviour of cat keepers which could result in a reduction of damage to the environment caused by domestic cats in the district.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

Domestic cats are companion animals for significant sections of the community. Other members may consider them as predators who should be subject to significant restrictions. The draft local law seeks to balance these issues without polarising the community.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Financial:</b> There is a risk that a proposed local law or provisions therein are disallowed by the Joint Standing Committee on Delegated Legislation. This would require the Shire to amend the local law resulting in additional costs.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	This risk has been mitigated somewhat by engaging the guidance from a qualified consultant.
<b>Reputational:</b> That the Shire cannot meet the community's expectations to the extent to which compliance can be managed.	Possible (3)	Insignificant (1)	Low (1-4)	Inadequate Change Management	Manage by an educational campaign to reduce non-compliance and encourage responsible cat ownership.

**Comment/Conclusion:**

A draft Shire of Denmark Cats Local Law is attached (see Attachment 9.3.4b).

The draft local law contains text boxes referring to the Cat Act and its associated regulations. These text boxes do not form part of the local law and are for guidance only; they will be removed from the official version published in the Government Gazette if the local law is made.

The salient considerations of the draft Local Law are discussed below.

1. Number of cats that may be kept without a permit

Clause 5.2.4 of the current *Shire of Denmark Health Local Law 1998* provides that up to two cats over the age of three months may be kept on premises within the district without a permit from the Shire.

It is proposed to retain this as the 'standard number' of cats that may be kept without a permit. This is considered reasonable and will limit the number of necessary permits to a minimum.

The process for a person to keep more than the standard number of cats is set out in the *Cat (Uniform Local Provisions) Regulations 2013*. In addition, clauses 2.3 – 2.6 of the proposed new local law set out possible conditions that could be applied where approval is given, and which must be considered on a case-by-case basis.

## 2. Cats creating a nuisance

It is considered that the local law should include provisions about nuisance behaviour of cats.

As such, 'nuisance' is defined in clause 1.4 of the draft local law as:

- (a) *an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;*
- (b) *an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or*
- (c) *interference which causes material damage to land or other property on the land affected by the interference;*

Clause 3.1 of the draft local law provides that:

*The owner or occupier of premises on which a cat is ordinarily kept shall prevent the cat from creating a nuisance on other premises, to another person or exposing another person to health and/or safety risks by:*

- (a) *The noise or odour generated by the presence of the cat/s;*
- (b) *The aggressive nature of the cat/s; or*
- (c) *A cat that wanders outside the premises where it is ordinarily kept.*

Enforcement provisions are set out in Part 4 of the draft local law.

## 3. District-wide prohibition and/or confinement provisions.

Section 79(3)(f) of the Cat Act provides that a local law may be made as to specifying places where cats are prohibited absolutely, and subclause (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats (emphasis added).

Local laws are subject to review by the WA Parliamentary Joint Standing Committee on Delegated Legislation which has taken the view that 'specified' and 'specifying' cannot include an entire district.

Officers note that during informal discussion workshops held with councillors on the draft local law, there was some concern about local governments not being able to prohibit cats in areas more broadly. Councillors were advised that in order for local governments to impose a broader prohibition of cats, the Cat Act would need to be amended. In 2019 the Department of Local Government completed a review into the Cat Act and Dog Act and reported a number of findings, including "strong support for cat numbers and confinement/curfews of cats to be implemented Statewide (in legislation) rather than through individual local laws".

With respect to the State Government's review, the CEO has provided a report to the WALGA – Great Southern Zone to consider writing to the Minister and the Department to request an update on the implementation of the review's findings. In addition, following the Council's resolution in June 2022, the CEO has written to the Minister requesting that the Cat Act be reviewed and, in particular, provisions around prohibition and confinement.

4. Specifying places where cats are prohibited absolutely and/or confined

‘Specified’ areas could include places adjacent to nature reserves to protect wildlife and could be included in a schedule to the local law. This can be in the form of a map of the district highlighting the area/s where cats are prohibited or the local law could specify (and name) particular areas, such as reserves, foreshores, regional parks etc.

Specifying prohibition or confinement provisions will require additional resourcing to ensure compliance, even if narrowly scoped. The Shire currently has two (2) full time rangers and, in the view of Shire Officers, this is insufficient for managing compliance of a local law that regulates prohibition or confinement requirements.

As such, the draft local law does not contain measures specifying areas where cats are prohibited and/or confined.

Noted in 3 and 4 above, and for the reasons outlined, officers do not recommend using the Local Law to provide strict controls over prohibition or control of cats in public places.

To reduce the number of cats in public places, self-regulation by the community may be a more effective long term way of achieving this outcome, particularly given the resources that would be required to regulate it.

In this regard it may assist for the Shire to run an education campaign to encourage and incentivise cat keepers to confine cats. A project example could be the Shire giving away a free confinement unit manufactured by a local business, for which all keepers of cats who register their cat with the Shire might be eligible to win in a draw, and repeated annually if successful.

**Voting Requirements:**

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.4
That Council:	
1. NOTE that it has considered the submissions received;	
2. MAKE the Cats Local Law, as per Attachment 9.3.4b, with the guiding legislation text boxes removed;	
3. REQUEST the Chief Executive Officer to broadly promulgate the new laws locally and commence an educative campaign to raise awareness and encourage responsible cat ownership; and	
4. DELEGATE to the Chief Executive Officer the power to:	
a) determine an application for keeping more than the standard number of cats, in accordance with clause 2.5 of the local law;	
b) determine an application to transfer the approval from an approved person to another person, in accordance with clause 2.8.	
c) vary or cancel an approval, in accordance with clause 2.9	
5. ADVERTISE its intention to impose the following new fees to commence at the time the Cats Local Law is gazetted in the Government Gazette:	
Keeping more than the standard number of cats	
Application Fee (clause 2.5)	\$250.00
Renewal Fee (clause 2.7)	\$100.00
Transfer Fee (clause 2.8)	\$100.00
6. REQUEST the Chief Executive Officer to undertake a broad education campaign around the new local law and include information that raises the awareness of requirements under <i>Cat Act 2011</i> and promotes responsible cat ownership.	

\* Absolute majority required.

### 9.3.5 PUBLIC HEALTH PLAN

<b>File Ref:</b>	PLN.88
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5 September 2022
<b>Author:</b>	Noni Entwisle, Governance & Employee Support Officer (with input from the former Corporate Planning Officer)
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.5 – Shire of Denmark - Public Health Plan 2022-2027

**Summary:**

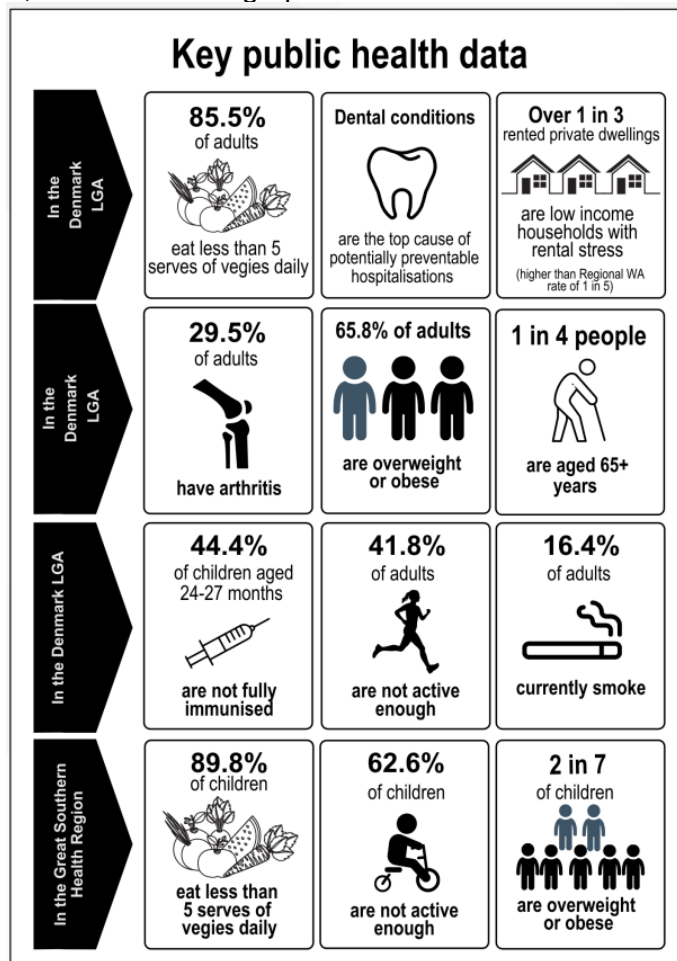
This report aims for Council to consider adopting the Shire of Denmark’s Public Health Plan 2022-2027.

**Background:**

A Public Health Plan is essentially a -

- Health Profile: the background evidence which provides an analysis of the health status and health determinants of the population and provides an overview of the public health needs and risks of the community; and
- Strategic plan: outlines the objectives and policy priorities that focus on achieving positive public health outcomes through the promotion, improvement and protection of public health and the development and delivery of public health services.

The key health data profile for Denmark, as presented by the Department of Health Epidemiology Team, is shown in the graphic below:





**Consultation:**

In November 2019, Council established a Working Group to develop a Public Health Plan (PHP) for the Shire. With the onset of Covid -19 in early 2020, the Working Group could not meet. The CEO halted proceedings; however, a body of community consultation work was undertaken, which the consultant and the working group considered when it was re-established in 2022. The new Working Group met in January 2022 to progress the Public Health Plan. The Working Group consisted of one Councillor representative, five community representatives and three industry representatives covering youth, aged care and government.

A consultant was engaged in to assist the Working Group to:

1. Investigate and provide background documentation to the Working Group on the public health profile of the local population, including the priority risk factors and priority populations.
2. Consider the State Public Health Plan and the applicability of its objectives and policy priorities to the local community.
3. Collate and summarise the feedback received from the community consultation during 2020/21.
4. Document public health activity the Shire already undertakes.
5. Identify possible gaps in public health activity undertaken by the Shire.
6. Provide a series of background reports to the Working Group for consideration, outlining proposed objectives and policy priorities that focus on achieving positive public health outcomes that address the gaps in service and program delivery.
7. Facilitate up to three workshops with the Public Health Plan Working Group with the result of delivering a set of clear, achievable action plans for the Shire to undertake over the next five years in the areas of public health promotion, improvement, and protection, including existing and new activities.
8. Document collaborative opportunities with government and non-government organisations to enhance public health outcomes.
9. Document a five-year strategy and action plan.

**Statutory Obligations:**

The *Public Health Act 2016* (WA) ('Act') is being implemented in stages. Stage 5 of the Act, which will require local governments to have a local Public Health Plan, has not yet come into effect. When Stage 5 of the Act is enacted, local governments will be required to have a plan established within two years. It was anticipated that Stage 5 would commence in July 2022 but this has been delayed.

**Policy Implications:**

- P080301 – Seniors Policy
- P100103 – Provision of Rubbish Service for the Disabled / Infirm
- P110706 – Aboriginal Heritage (and Reconciliation)
- P110710 – Disability Access & Inclusion Plan Policy Statement
- P130303 – Compliance with Mobility Standards by Denmark CBD Buildings (that are renovated)

All of the above policies relate in some way to the draft PHP and, should the plan be adopted, it would be advisable for Shire staff to review them.

**Budget / Financial Implications:**

The financial implications of the Public Health Plan are incorporated within the Long Term Financial Plan. The Long Term Financial Plan provides the basis for items considered in Annual Budgets.

**Strategic & Corporate Plan Implications:**

The plan aligns itself to the pillars of the Strategic Community Plan. The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

## C4.0 Our Community

We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit.

Corporate Business Plan 2021-2024

Governance: Deliver a Public Health Plan that protects, improves and promotes public health and well-being in the Shire.

**Sustainability Implications:****➤ Sustainability Strategy and Action Plan**

The Public Health Plan is consistent with the key principles and objectives of the Shire of Denmark Sustainability Strategy 2021-2031.

**➤ Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

**➤ Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

**➤ Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

**➤ Social:**

There are no known significant social considerations relating to the report or officer recommendation; however, the benefits of supporting positive health and well-being actions in the community have substantial benefits associated with psychological and physical well-being for community members.

**➤ Risk:**

There are no known risks associated with this report.

**Comment/Conclusion:**

The officer notes that the Shire of Denmark has limited capacity to develop and deliver an annual work plan related to public health that is in addition to the current activity it already undertakes. The officer also notes that the Shire already undertakes a wide range of activities that support the draft Public Health Plan as highlighted in the report.

The Shire of Denmark recognises that addressing public health factors requires a holistic approach supported by other levels of government, local community, and business to have the most significant health and well-being outcomes.

**Voting Requirements:**

Simple majority.

**OFFICER RECOMMENDATION**

ITEM 9.3.5

That Council;

1. ADOPT the 2022 – 2027 Public Health Plan as presented in Attachment 9.3.6.
2. REQUEST the Chief Executive Officer to review the following Council Policies and should they need reviewing or repealing, present them back to Council for consideration:
  - a) P080301 – Seniors Policy
  - b) P100103 – Provision of Rubbish Service for the Disabled / Infirm
  - c) P110706 – Aboriginal Heritage (and Reconciliation)
  - d) P110710 – Disability Access & Inclusion Plan Policy Statement
  - e) P130303 – Compliance with Mobility Standards by Denmark CBD Buildings (that are renovated)

**10. COMMITTEE REPORTS AND RECOMMENDATIONS**

Nil

**11. MATTERS BEHIND CLOSED DOORS**

Nil

**12. NEW BUSINESS OF AN URGENT NATURE**

Nil

**13. CLOSURE OF MEETING**